

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY
TRIBUNALS



VOLUME X

"THE HIGH COMMAND CASE"

Germany. (Territory under Allied occupation
" 1945- (U.S. Zone.) Military tribunals.

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY TRIBUNALS
UNDER
CONTROL COUNCIL LAW No. 10

NUERNBERG
OCTOBER 1946-APRIL 1949



VOLUME X

UNITED STATES
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PREFACE

In April 1949, judgment was rendered in the last of the series of 12 Nuernberg war crimes trials which had begun in October 1946 and were held pursuant to Allied Control Council Law No. 10. Far from being of concern solely to lawyers, these trials are of especial interest to soldiers, historians, students of international affairs, and others. The defendants in these proceedings, charged with war crimes and other offenses against international penal law, were prominent figures in Hitler's Germany and included such outstanding diplomats and politicians as the State Secretary of the Foreign Office, von Weizsaecker, and cabinet ministers von Krosigk and Lammers; military leaders such as Field Marshals von Leeb, List, and von Kuechler; SS leaders such as Ohlendorf, Pohl, and Hildebrandt; industrialists such as Flick, Alfried Krupp, and the directors of I. G. Farben; and leading professional men such as the famous physician, Gerhard Rose, and the jurist and Acting Minister of Justice, Schlegelberger.

In view of the weight of the accusations and the far-flung activities of the defendants, and the extraordinary amount of official contemporaneous German documents introduced in evidence, the records of these trials constitute a major source of historical material covering many events of the fateful years 1933 (and even earlier) to 1945, in Germany and elsewhere in Europe.

The Nuernberg trials under Law No. 10 were carried out under the direct authority of the Allied Control Council, as manifested in that law, which authorized the establishment of the Tribunals. The judicial machinery for the trials, including the Military Tribunals and the Office, Chief of Counsel for War Crimes, was prescribed by Military Government Ordinance No. 7 and was part of the occupation administration for the American zone, the Office of Military Government (OMGUS). Law No. 10, Ordinance No. 7, and other basic jurisdictional or administrative documents are printed in full hereinafter.

The proceedings in these trials were conducted throughout in the German and English languages, and were recorded in full by stenographic notes, and by electrical sound recording of all oral proceedings. The 12 cases required over 1,200 days of court proceedings and the transcript of these proceedings exceeds 330,000 pages, exclusive of hundreds of document books, briefs, etc. Publication of all of this material, accordingly, was quite unfeasible. This series, however, contains the indictments, judgments, and

other important portions of the record of the 12 cases, and it is believed that these materials give a fair picture of the trials, and as full and illuminating a picture as is possible within the space available. Copies of the entire record of the trials are available in the Library of Congress, the National Archives, and elsewhere.

In some cases, due to time limitations, errors of one sort or another have crept into the translations which were available to the Tribunal. In other cases the same document appears in different trials, or even at different parts of the same trial, with variations in translation. For the most part these inconsistencies have been allowed to remain and only such errors as might cause misunderstanding have been corrected.

Volumes X and XI are devoted to the "military cases," the two trials which concerned principally the activities of high-ranking German military leaders. Volume X and the first part of Volume XI is dedicated to the "High Command Case," (*United States vs. Wilhelm von Leeb, et al.*, Case No. 12). Leeb and twelve of the other defendants indicted were field marshals or generals, and one was an admiral, all of whom held high command and staff positions in the Wehrmacht. The remainder of Volume XI concerns the "Hostage case," (*United States vs. Wilhelm List, et al.*, Case No. 7). List and the other 11 defendants indicted in this case were field marshals and generals charged principally with war crimes committed in Norway and during the German occupation of southeast Europe, more particularly Yugoslavia, Albania, and Greece.

Although the "Hostage Case" was concluded some months before the High Command Case, the materials on the High Command Case are reproduced first in these volumes for reasons of clarity and economy. The High Command Case contains historical features running back to the period immediately following the First World War which are not contained in the Hostage Case. More important, however, is the fact that some of the defendants in the High Command Case were assigned to central military agencies of the German Armed Forces, whereas all of the defendants in the Hostage Case were field commanders or chiefs of staff to field commanders. The sections of this publication on the High Command Case, therefore, afford the better place to present most of the materials on military organization and on the history and origin of numerous military orders common to both cases. This sequence of printing the materials has made it possible to avoid reproducing in connection with the Hostage Case numerous lengthy documents and other materials already appearing in the sections on the High Command Case.

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ARRANGEMENT BY SUBJECT UNITS FOR PUBLICATION*

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1	Karl Brandt, et al.	Medical Case	I and II
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8	Ulrich Greifelt, et al.	RuSHA Case	IV and V
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* Although the subject material in many of the cases overlaps, it was believed that this arrangement of the cases would be most helpful to the reader and the most feasible for publication purposes.

DECLARATION ON GERMAN ATROCITIES

[Moscow Declaration]

Released November 1, 1943

THE UNITED KINGDOM, the United States and the Soviet Union have received from many quarters evidence of atrocities, massacres and cold-blooded mass executions which are being perpetrated by the Hitlerite forces in the many countries they have overrun and from which they are now being steadily expelled. The brutalities of Hitlerite domination are no new thing and all the peoples or territories in their grip have suffered from the worst form of government by terror. What is new is that many of these territories are now being redeemed by the advancing armies of the liberating Powers and that in their desperation, the recoiling Hitlerite Huns are redoubling their ruthless cruelties. This is now evidenced with particular clearness by monstrous crimes of the Hitlerites on the territory of the Soviet Union which is being liberated from the Hitlerites, and on French and Italian territory.

Accordingly, the aforesaid three allied Powers, speaking in the interests of the thirty-two [thirty-three] United Nations, hereby solemnly declare and give full warning of their declaration as follows:

At the time of the granting of any armistice to any government which may be set up in Germany, those German officers and men and members of the Nazi party who have been responsible for, or have taken a consenting part in the above atrocities, massacres, and executions, will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free governments which will be created therein. Lists will be compiled in all possible detail from all of these countries having regard especially to the invaded parts of the Soviet Union, to Poland and Czechoslovakia, to Yugoslavia and Greece, including Crete and other islands, to Norway, Denmark, the Netherlands, Belgium, Luxemburg, France and Italy.

Thus, the Germans who take part in wholesale shootings of Italian officers or in the execution of French, Dutch, Belgian, or Norwegian hostages or of Cretan peasants, or who have shared in the slaughters inflicted on the people of Poland or in territories of the Soviet Union which are now being swept clear of the enemy, will know that they will be brought back to the scene of their crimes and judged on the spot by the peoples whom they have outraged. Let those who have hitherto not imbrued their hands with innocent blood beware lest they join the ranks of the guilty, for most assuredly the three allied Powers will pursue them to the uttermost ends of the earth and will deliver them to their accusers in order that justice may be done.

The above declaration is without prejudice to the case of the major criminals, whose offences have no particular geographical localisation and who will be punished by the joint decision of the Governments of the Allies.

[Signed]

Roosevelt
Churchill
Stalin

EXECUTIVE ORDER 9547

PROVIDING FOR REPRESENTATION OF THE UNITED STATES IN PREPARING AND PROSECUTING CHARGES OF ATROCITIES AND WAR CRIMES AGAINST THE LEADERS OF THE EUROPEAN AXIS POWERS AND THEIR PRINCIPAL AGENTS AND ACCESSORIES

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

1. Associate Justice Robert H. Jackson is hereby designated to act as the Representative of the United States and as its Chief of Counsel in preparing and prosecuting charges of atrocities and war crimes against such of the leaders of the European Axis powers and their principal agents and accessories as the United States may agree with any of the United Nations to bring to trial before an international military tribunal. He shall serve without additional compensation but shall receive such allowance for expenses as may be authorized by the President.

2. The Representative named herein is authorized to select and recommend to the President or to the head of any executive department, independent establishment, or other federal agency necessary personnel to assist in the performance of his duties hereunder. The head of each executive department, independent establishment, and other federal agency is hereby authorized to assist the Representative named herein in the performance of his duties hereunder and to employ such personnel and make such expenditures, within the limits of appropriations now or hereafter available for the purpose, as the Representative named herein may deem necessary to accomplish the purposes of this order, and may make available, assign, or detail for duty with the Representative named herein such members of the armed forces and other personnel as may be requested for such purposes.

3. The Representative named herein is authorized to cooperate with, and receive the assistance of, any foreign Government to the extent deemed necessary by him to accomplish the purposes of this order.

HARRY S. TRUMAN

THE WHITE HOUSE,
May 2, 1945.

(F. R. Doc. 45-7256; Filed, May 3, 1945; 10:57 a.m.)

LONDON AGREEMENT OF 8 AUGUST 1945

AGREEMENT by the Government of the UNITED STATES OF AMERICA, the Provisional Government of the FRENCH REPUBLIC, the Government of the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the Government of the UNION OF SOVIET SOCIALIST REPUBLICS for the Prosecution and Punishment of the MAJOR WAR CRIMINALS of the EUROPEAN AXIS

WHEREAS the United Nations have from time to time made declarations of their intention that War Criminals shall be brought to justice;

AND WHEREAS the Moscow Declaration of the 30th October 1943 on German atrocities in Occupied Europe stated that those German Officers and men and members of the Nazi Party who have been responsible for or have taken a consenting part in atrocities and crimes will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free Governments that will be created therein;

AND WHEREAS this Declaration was stated to be without prejudice to the case of major criminals whose offenses have no particular geographical location and who will be punished by the joint decision of the Governments of the Allies;

NOW THEREFORE the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics (hereinafter called "the Signatories") acting in the interests of all the United Nations and by their representatives duly authorized thereto have concluded this Agreement.

Article 1. There shall be established after consultation with the Control Council for Germany an International Military Tribunal for the trial of war criminals whose offenses have no particular geographical location whether they be accused individually or in their capacity as members of organizations or groups or in both capacities.

Article 2. The constitution, jurisdiction and functions of the International Military Tribunal shall be those set out in the Charter annexed to this Agreement, which Charter shall form an integral part of this Agreement.

Article 3. Each of the Signatories shall take the necessary steps to make available for the investigation of the charges and trial the major war criminals detained by them who are to be tried by the International Military Tribunal. The Signatories shall also use their best endeavors to make available for investigation of the charges against and the trial before the International Military Tribunal such of the major war criminals as are not in the territories of any of the Signatories.

Article 4. Nothing in this Agreement shall prejudice the provisions established by the Moscow Declaration concerning the return of war criminals to the countries where they committed their crimes.

Article 5. Any Government of the United Nations may adhere to this Agreement by notice given through the diplomatic channel to the Government of the United Kingdom, who shall inform the other signatory and adhering Governments of each such adherence.

Article 6. Nothing in this Agreement shall prejudice the jurisdiction or the powers of any national or occupation court established or to be established in any allied territory or in Germany for the trial of war criminals.

Article 7. This agreement shall come into force on the day of signature and shall remain in force for the period of one year and shall continue thereafter, subject to the right of any Signatory to give, through the diplomatic channel, one month's notice of intention to terminate it. Such termination shall not prejudice any proceedings already taken or any findings already made in pursuance of this Agreement.

IN WITNESS WHEREOF the Undersigned have signed the present Agreement.

DONE in quadruplicate in London this 8th day of August 1945 each in English, French and Russian, and each text to have equal authenticity.

For the Government of the United States of America
ROBERT H. JACKSON

For the Provisional Government of the French Republic
ROBERT FALCO

For the Government of the United Kingdom of Great
Britain and Northern Ireland
JOWITT, C.

For the Government of the Union of Soviet Socialist
Republics

I. NIKITCHENKO
A. TRAININ

CHARTER OF THE INTERNATIONAL MILITARY TRIBUNAL

I. CONSTITUTION OF THE INTERNATIONAL MILITARY TRIBUNAL

Article 1. In pursuance of the Agreement signed on the 8th day of August 1945 by the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics, there shall be established an International Military Tribunal (hereinafter called "the Tribunal") for the just and prompt trial and punishment of the major war criminals of the European Axis.

Article 2. The Tribunal shall consist of four members, each with an alternate. One member and one alternate shall be appointed by each of the Signatories. The alternates shall, so far as they are able, be present at all sessions of the Tribunal. In case of illness of any member of the Tribunal or his incapacity for some other reason to fulfill his functions, his alternate shall take his place.

Article 3. Neither the Tribunal, its members nor their alternates can be challenged by the prosecution, or by the Defendants or their Counsel. Each Signatory may replace its member of the Tribunal or his alternate for reasons of health or for other good reasons, except that no replacement may take place during a Trial, other than by an alternate.

Article 4.

(a) The presence of all four members of the Tribunal or the alternate for any absent member shall be necessary to constitute the quorum.

(b) The members of the Tribunal shall, before any trial begins, agree among themselves upon the selection from their number of a President, and the President shall hold office during that trial, or as may otherwise be agreed by a vote of not less than three members. The principle of rotation of presidency for successive trials is agreed. If, however, a session of the Tribunal takes place on the territory of one of the four Signatories, the representative of that Signatory on the Tribunal shall preside.

(c) Save as aforesaid the Tribunal shall take decisions by a majority vote and in case the votes are evenly divided, the vote of the President shall be decisive: provided always that convictions and sentences shall only be imposed by affirmative votes of at least three members of the Tribunal.

Article 5. In case of need and depending on the number of the matters to be tried, other Tribunals may be set up; and the establishment, functions, and procedure of each Tribunal shall be identical, and shall be governed by this Charter.

II. JURISDICTION AND GENERAL PRINCIPLES

Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) **CRIMES AGAINST PEACE:** namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

- (b) **WAR CRIMES:** namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;
- (c) **CRIMES AGAINST HUMANITY:** namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.¹

Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

Article 7. The official position of defendants, whether as Heads of State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment.

Article 8. The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment, if the Tribunal determines that justice so requires.

Article 9. At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization.

After receipt of the Indictment the Tribunal shall give such notice as it thinks fit that the prosecution intends to ask the Tribunal to make such declaration and any member of the organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the organization. The Tribunal shall have power to allow or reject the application. If the application is allowed, the Tribunal may direct in what manner the applicants shall be represented and heard.

Article 10. In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring individuals to trial for membership therein before national, military or occupation courts. In any such case the criminal nature of the group or organization is considered proved and shall not be questioned.

Article 11. Any person convicted by the Tribunal may be charged before a national, military or occupation court, referred to in Article 10 of this Charter, with a crime other than of membership in a criminal group or organization and such court may, after convicting him, impose upon him punishment independent of and additional to the punishment imposed by the Tribunal for participation in the criminal activities of such group or organization.

Article 12. The Tribunal shall have the right to take proceedings against a person charged with crimes set out in Article 6 of this Charter in his absence, if he has not been found or if the Tribunal, for any reason, finds it necessary, in the interests of justice, to conduct the hearing in his absence.

¹ See protocol p. XVIII for correction of this paragraph.

Article 13. The Tribunal shall draw up rules for its procedure. These rules shall not be inconsistent with the provisions of this Charter.

III. COMMITTEE FOR THE INVESTIGATION AND PROSECUTION OF MAJOR WAR CRIMINALS

Article 14. Each Signatory shall appoint a Chief Prosecutor for the investigation of the charges against and the prosecution of major war criminals.

The Chief Prosecutors shall act as a committee for the following purposes:

- (a) to agree upon a plan of the individual work of each of the Chief Prosecutors and his staff,
- (b) to settle the final designation of major war criminals to be tried by the Tribunal,
- (c) to approve the Indictment and the documents to be submitted therewith,
- (d) to lodge the Indictment and the accompanying documents with the Tribunal,
- (e) to draw up and recommend to the Tribunal for its approval draft rules of procedure, contemplated by Article 13 of this Charter. The Tribunal shall have power to accept, with or without amendments, or to reject, the rules so recommended.

The Committee shall act in all the above matters by a majority vote and shall appoint a Chairman as may be convenient and in accordance with the principle of rotation: provided that if there is an equal division of vote concerning the designation of a Defendant to be tried by the Tribunal, or the crimes with which he shall be charged, that proposal will be adopted which was made by the party which proposed that the particular Defendant be tried, or the particular charges be preferred against him.

Article 15. The Chief Prosecutors shall individually, and acting in collaboration with one another, also undertake the following duties:

- (a) investigation, collection, and production before or at the Trial of all necessary evidence,
- (b) the preparation of the Indictment for approval by the Committee in accordance with paragraph (e) of Article 14 hereof,
- (c) the preliminary examination of all necessary witnesses and of the Defendants,
- (d) to act as prosecutor at the Trial,
- (e) to appoint representatives to carry out such duties as may be assigned to them,
- (f) to undertake such other matters as may appear necessary to them for the purposes of the preparation for and conduct of the Trial.

It is understood that no witness or Defendant detained by any Signatory shall be taken out of the possession of that Signatory without its assent.

IV. FAIR TRIAL FOR DEFENDANTS

Article 16. In order to ensure fair trial for the Defendants, the following procedure shall be followed:

- (a) The Indictment shall include full particulars specifying in detail the charges against the Defendants. A copy of the Indictment and of all the documents lodged with the Indictment, translated into a language which he understands, shall be furnished to the Defendant at a reasonable time before the Trial.
- (b) During any preliminary examination or trial of a Defendant he shall have the right to give any explanation relevant to the charges made against him.

- (c) A preliminary examination of a Defendant and his Trial shall be conducted in, or translated into, a language which the Defendant understands.
- (d) A defendant shall have the right to conduct his own defense before the Tribunal or to have the assistance of Counsel.
- (e) A defendant shall have the right through himself or through his Counsel to present evidence at the Trial in support of his defense, and to cross-examine any witness called by the Prosecution.

V. POWERS OF THE TRIBUNAL AND CONDUCT OF THE TRIAL

Article 17. The Tribunal shall have the power

- (a) to summon witnesses to the Trial and to require their attendance and testimony and to put questions to them,
- (b) to interrogate any Defendant,
- (c) to require the production of documents and other evidentiary material,
- (d) to administer oaths to witnesses,
- (e) to appoint officers for the carrying out of any task designated by the Tribunal including the power to have evidence taken on commission.

Article 18. The Tribunal shall

- (a) confine the Trial strictly to an expeditious hearing of the issues raised by the charges,
- (b) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevant issues and statements of any kind whatsoever,
- (c) deal summarily with any contumacy, imposing appropriate punishment, including exclusion of any Defendant or his Counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article 19. The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which it deems to have probative value.

Article 20. The Tribunal may require to be informed of the nature of any evidence before it is offered so that it may rule upon the relevance thereof.

Article 21. The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and the records and findings of military or other Tribunals of any of the United Nations.

Article 22. The permanent seat of the Tribunal shall be in Berlin. The first meetings of the members of the Tribunal and of the Chief Prosecutors shall be held at Berlin in a place to be designated by the Control Council for Germany. The first trial shall be held at Nuremberg, and any subsequent trials shall be held at such places as the Tribunal may decide.

Article 23. One or more of the Chief Prosecutors may take part in the prosecution at each Trial. The function of any Chief Prosecutor may be discharged by him personally, or by any person or persons authorized by him.

The function of Counsel for a Defendant may be discharged at the Defendant's request by any Counsel professionally qualified to conduct cases before the Courts of his own country, or by any other person who may be specially authorized thereto by the Tribunal.

Article 24. The proceedings at the Trial shall take the following course:

- (a) The Indictment shall be read in court.
- (b) The Tribunal shall ask each Defendant whether he pleads "guilty" or "not guilty".
- (c) The Prosecution shall make an opening statement.
- (d) The Tribunal shall ask the Prosecution and the Defense what evidence (if any) they wish to submit to the Tribunal, and the Tribunal shall rule upon the admissibility of any such evidence.
- (e) The witnesses for the Prosecution shall be examined and after that the witnesses for the Defense. Thereafter such rebutting evidence as may be held by the Tribunal to be admissible shall be called by either the Prosecution or the Defense.
- (f) The Tribunal may put any question to any witness and to any Defendant, at any time.
- (g) The Prosecution and the Defense shall interrogate and may cross-examine any witnesses and any Defendant who gives testimony.
- (h) The Defense shall address the court.
- (i) The Prosecution shall address the court.
- (j) Each Defendant may make a statement to the Tribunal.
- (k) The Tribunal shall deliver judgment and pronounce sentence.

Article 25. All official documents shall be produced, and all court proceedings conducted, in English, French and Russian, and in the language of the Defendant. So much of the record and of the proceedings may also be translated into the language of any country in which the Tribunal is sitting, as the Tribunal considers desirable in the interests of justice and public opinion.

VI. JUDGMENT AND SENTENCE

Article 26. The judgment of the Tribunal as to the guilt or the innocence of any Defendant shall give the reasons on which it is based, and shall be final and not subject to review.

Article 27. The Tribunal shall have the right to impose upon a Defendant, on conviction, death or such other punishment as shall be determined by it to be just.

Article 28. In addition to any punishment imposed by it, the Tribunal shall have the right to deprive the convicted person of any stolen property and order its delivery to the Control Council for Germany.

Article 29. In case of guilt, sentences shall be carried out in accordance with the orders of the Control Council for Germany, which may at any time reduce or otherwise alter the sentences, but may not increase the severity thereof. If the Control Council for Germany, after any Defendant has been convicted and sentenced, discovers fresh evidence which, in its opinion, would found a fresh charge against him, the Council shall report accordingly to the Committee established under Article 14 hereof, for such action as they may consider proper, having regard to the interests of justice.

VII. EXPENSES

Article 30. The expenses of the Tribunal and of the Trials, shall be charged by the Signatories against the funds allotted for maintenance of the Control Council for Germany.

PROTOCOL

Whereas an Agreement and Charter regarding the Prosecution of War Criminals was signed in London on the 8th August 1945, in the English, French and Russian languages,

And whereas a discrepancy has been found to exist between the originals of Article 6, paragraph (c), of the Charter in the Russian language, on the one hand, and the originals in the English and French languages, on the other, to wit, the semi-colon in Article 6, paragraph (c), of the Charter between the words "war" and "or", as carried in the English and French texts, is a comma in the Russian text,

And whereas it is desired to rectify this discrepancy:

Now, THEREFORE, the undersigned, signatories of the said Agreement on behalf of their respective Governments, duly authorized thereto, have agreed that Article 6, paragraph (c), of the Charter in the Russian text is correct, and that the meaning and intention of the Agreement and Charter require that the said semi-colon in the English text should be changed to a comma, and that the French text should be amended to read as follows:

(c) LES CRIMES CONTRE L'HUMANITE: c'est à dire l'assassinat, l'extermination, la réduction en esclavage, la déportation, et tout autre acte inhumain commis contre toutes populations civiles, avant ou pendant la guerre, ou bien les persécutions pour des motifs politiques, raciaux, ou religieux, lorsque ces actes ou persécutions, qu'ils aient constitué ou non une violation du droit interne du pays où ils ont été perpétrés, ont été commis à la suite de tout crime rentrant dans la compétence du Tribunal, ou en liaison avec ce crime.

IN WITNESS WHEREOF the Undersigned have signed the present Protocol.

DONE in quadruplicate in Berlin this 6th day of October, 1945, each in English, French, and Russian, and each text to have equal authenticity.

For the Government of the United States of America
ROBERT H. JACKSON

For the Provisional Government of the French Republic
FRANÇOIS DE MENTHON

For the Government of the United Kingdom of Great
Britain and Northern Ireland
HARTLEY SHAWCROSS

For the Government of the Union of Soviet Socialist
Republics
R. RUDENKO

CONTROL COUNCIL LAW NO. 10

PUNISHMENT OF PERSONS GUILTY OF WAR CRIMES, CRIMES AGAINST PEACE AND AGAINST HUMANITY

In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945, and the Charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal, the Control Council enacts as follows:

Article I

The Moscow Declaration of 30 October 1943 "Concerning Responsibility of Hitlerites for Committed Atrocities" and the London Agreement of 8 August 1945 "Concerning Prosecution and Punishment of Major War Criminals of the European Axis" are made integral parts of this Law. Adherence to the provisions of the London Agreement by any of the United Nations, as provided for in Article V of that Agreement, shall not entitle such Nation to participate or interfere in the operation of this Law within the Control Council area of authority in Germany.

Article II

1. Each of the following acts is recognized as a crime:

(a) *Crimes against Peace.* Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

(b) *War Crimes.* Atrocities or offences against persons or property, constituting violations of the laws or customs of war, including but not limited to, murder, ill treatment or deportation to slave labour or for any other purpose, of civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

(c) *Crimes against Humanity.* Atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.

(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime or (f) with reference to paragraph 1 (a), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, co-belligerents or satellites or held high position in the financial, industrial or economic life of any such country.

3. Any person found guilty of any of the Crimes above mentioned may upon conviction be punished as shall be determined by the tribunal to be just. Such punishment may consist of one or more of the following:

- (a) Death.
- (b) Imprisonment for life or a term of years, with or without hard labour.
- (c) Fine, and imprisonment with or without hard labour, in lieu thereof.
- (d) Forfeiture of property.
- (e) Restitution of property wrongfully acquired.
- (f) Deprivation of some or all civil rights.

Any property declared to be forfeited or the restitution of which is ordered by the Tribunal shall be delivered to the Control Council for Germany, which shall decide on its disposal.

4. (a) The official position of any person, whether as Head of State or as a responsible official in a Government Department, does not free him from responsibility for a crime or entitle him to mitigation of punishment.

(b) The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.

5. In any trial or prosecution for a crime herein referred to, the accused shall not be entitled to the benefits of any statute of limitation in respect of the period from 30 January 1933 to 1 July 1945, nor shall any immunity, pardon or amnesty granted under the Nazi regime be admitted as a bar to trial or punishment.

Article III

1. Each occupying authority, within its Zone of occupation,

(a) shall have the right to cause persons within such Zone suspected of having committed a crime, including those charged with crime by one of the United Nations, to be arrested and shall take under control the property, real and personal, owned or controlled by the said persons, pending decisions as to its eventual disposition.

(b) shall report to the Legal Directorate the names of all suspected criminals, the reasons for and the places of their detention, if they are detained, and the names and location of witnesses.

(c) shall take appropriate measures to see that witnesses and evidence will be available when required.

(d) shall have the right to cause all persons so arrested and charged, and not delivered to another authority as herein provided, or released, to be brought to trial before an appropriate tribunal. Such tribunal may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality, or stateless persons, be a German Court, if authorized by the occupying authorities.

2. The tribunal by which persons charged with offenses hereunder shall be tried and the rules and procedure thereof shall be determined or designated by each Zone Commander for his respective Zone. Nothing herein is intended to, or shall impair or limit the jurisdiction or power of any court or tribunal now or hereafter established in any Zone by the Commander thereof, or of the International Military Tribunal established by the London Agreement of 8 August 1945.

3. Persons wanted for trial by an International Military Tribunal will not be tried without the consent of the Committee of Chief Prosecutors. Each Zone Commander will deliver such persons who are within his Zone to that committee upon request and will make witnesses and evidence available to it.

4. Persons known to be wanted for trial in another Zone or outside Germany will not be tried prior to decision under Article IV unless the fact of their apprehension has been reported in accordance with Section 1 (b) of this Article, three months have elapsed thereafter, and no request for delivery of the type contemplated by Article IV has been received by the Zone Commander concerned.

5. The execution of death sentences may be deferred by not to exceed one month after the sentence has become final when the Zone Commander con-

cerned has reason to believe that the testimony of those under sentence would be of value in the investigation and trial of crimes within or without his Zone.

6. Each Zone Commander will cause such effect to be given to the judgments of courts of competent jurisdiction, with respect to the property taken under his control pursuant hereto, as he may deem proper in the interest of justice.

Article IV

1. When any person in a Zone in Germany is alleged to have committed a crime, as defined in Article II, in a country other than Germany or in another Zone, the government of that nation or the Commander of the latter Zone, as the case may be, may request the Commander of the Zone in which the person is located for his arrest and delivery for trial to the country or Zone in which the crime was committed. Such request for delivery shall be granted by the Commander receiving it unless he believes such person is wanted for trial or as a witness by an International Military Tribunal, or in Germany, or in a nation other than the one making the request, or the Commander is not satisfied that delivery should be made, in any of which cases he shall have the right to forward the said request to the Legal Directorate of the Allied Control Authority. A similar procedure shall apply to witnesses, material exhibits and other forms of evidence.

2. The Legal Directorate shall consider all requests referred to it, and shall determine the same in accordance with the following principles, its determination to be communicated to the Zone Commander.

(a) A person wanted for trial or as a witness by an International Military Tribunal shall not be delivered for trial or required to give evidence outside Germany, as the case may be, except upon approval of the Committee of Chief Prosecutors acting under the London Agreement of 8 August 1945.

(b) A person wanted for trial by several authorities (other than an International Military Tribunal) shall be disposed of in accordance with the following priorities:

(1) If wanted for trial in the Zone in which he is, he should not be delivered unless arrangements are made for his return after trial elsewhere;

(2) If wanted for trial in a Zone other than that in which he is, he should be delivered to that Zone in preference to delivery outside Germany unless arrangements are made for his return to that Zone after trial elsewhere;

(3) If wanted for trial outside Germany by two or more of the United Nations, of one of which he is a citizen, that one should have priority;

(4) If wanted for trial outside Germany by several countries, not all of which are United Nations, United Nations should have priority;

(5) If wanted for trial outside Germany by two or more of the United Nations, then, subject to Article IV 2 (b) (3) above, that which has the most serious charges against him, which are moreover supported by evidence, should have priority.

Article V

The delivery, under Article IV of this Law, of persons for trial shall be made on demands of the Governments or Zone Commanders in such a manner that the delivery of criminals to one jurisdiction will not become the means of defeating or unnecessarily delaying the carrying out of justice in another place. If within six months the delivered person has not been convicted by the Court of the zone or country to which he has been delivered, then such

person shall be returned upon demand of the Commander of the Zone where the person was located prior to delivery.

Done at Berlin, 20 December 1945.

JOSEPH T. McNARNEY
General

B. L. MONTGOMERY
Field Marshal

L. KOELTZ
General de Corps d'Armée
for P. KOENIG
General d'Armée

G. ZHUKOV
Marshal of the Soviet Union

EXECUTIVE ORDER 9679

AMENDMENT OF EXECUTIVE ORDER NO. 9547 OF MAY 2, 1945, ENTITLED "PROVIDING FOR REPRESENTATION OF THE UNITED STATES IN PREPARING AND PROSECUTING CHARGES OF ATROCITIES AND WAR CRIMES AGAINST THE LEADERS OF THE EUROPEAN AXIS POWERS AND THEIR PRINCIPAL AGENTS AND ACCESSORIES"

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

1. In addition to the authority vested in the Representative of the United States and its Chief of Counsel by Paragraph 1 of Executive Order No. 9547 of May 2, 1945, to prepare and prosecute charges of atrocities and war crimes against such of the leaders of the European Axis powers and their accessories as the United States may agree with any of the United Nations to bring to trial before an international military tribunal, such Representative and Chief of Counsel shall have the authority to proceed before United States military or occupation tribunals, in proper cases, against other Axis adherents, including but not limited to cases against members of groups and organizations declared criminal by the said international military tribunal.

2. The present Representative and Chief of Counsel is authorized to designate a Deputy Chief of Counsel, to whom he may assign responsibility for organizing and planning the prosecution of charges of atrocities and war crimes, other than those now being prosecuted as Case No. 1 in the international military tribunal, and, as he may be directed by the Chief of Counsel, for conducting the prosecution of such charges of atrocities and war crimes.

3. Upon vacation of office by the present Representative and Chief of Counsel, the functions, duties, and powers of the Representative of the United States and its Chief of Counsel, as specified in the said Executive Order No. 9547 of May 2, 1945, as amended by this order, shall be vested in a Chief of Counsel for War Crimes to be appointed by the United States Military Governor for Germany or by his successor.

4. The said Executive Order No. 9547 of May 2, 1945 is amended accordingly.

HARRY S. TRUMAN

THE WHITE HOUSE,
January 16, 1946.

(F. R. Doc. 46-898; Filed, Jan. 17, 1946; 11:08 a.m.)

HEADQUARTERS
US FORCES, EUROPEAN THEATER

GENERAL ORDERS }
No. 301

24 OCTOBER 1946

Office of Chief of Counsel for War Crimes..... I
Chief Prosecutor II
Announcement of Assignments..... III

I.....OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES. Effective this date, the Office of Chief of Counsel for War Crimes is transferred to the Office of Military Government for Germany (US). The Chief of Counsel for War Crimes will report directly to the Deputy Military Governor and will work in close liaison with the Legal Adviser of the Office of Military Government for Germany and with the Theater Judge Advocate.

II.....CHIEF PROSECUTOR. Effective this date, the Chief of Counsel for War Crimes will also serve as Chief Prosecutor under the Charter of the International Military Tribunal, established by the Agreement of 8 August 1945.

III.....ANNOUNCEMENT OF ASSIGNMENTS. Effective this date, Brigadier General Telford Taylor, USA, is announced as Chief of Counsel for War Crimes, in which capacity he will also serve as Chief Prosecutor for the United States under the Charter of the International Military Tribunal, established by the Agreement of 8 August 1945.

BY COMMAND OF GENERAL McNARNEY:

C. R. HUEBNER
Major General, GSC,
Chief of Staff

OFFICIAL:

GEORGE F. HERBERT
Colonel, AGD
Adjutant General

DISTRIBUTION: D

MILITARY GOVERNMENT—GERMANY
UNITED STATES ZONE
ORDINANCE NO. 7

ORGANIZATION AND POWERS OF CERTAIN MILITARY TRIBUNALS

Article I

The purpose of this Ordinance is to provide for the establishment of military tribunals which shall have power to try and punish persons charged

with offenses recognized as crimes in Article II of Control Council Law No. 10, including conspiracies to commit any such crimes. Nothing herein shall prejudice the jurisdiction or the powers of other courts established or which may be established for the trial of any such offenses.

Article II

(a) Pursuant to the powers of the Military Governor for the United States Zone of Occupation within Germany and further pursuant to the powers conferred upon the Zone Commander by Control Council Law No. 10 and Articles 10 and 11 of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945 certain tribunals to be known as "Military Tribunals" shall be established hereunder.

(b) Each such tribunal shall consist of three or more members to be designated by the Military Governor. One alternate member may be designated to any tribunal if deemed advisable by the Military Governor. Except as provided in subsection (c) of this Article, all members and alternates shall be lawyers who have been admitted to practice, for at least five years, in the highest courts of one of the United States or its territories or of the District of Columbia, or who have been admitted to practice in the United States Supreme Court.

(c) The Military Governor may in his discretion enter into an agreement with one or more other zone commanders of the member nations of the Allied Control Authority providing for the joint trial of any case or cases. In such cases the tribunals shall consist of three or more members as may be provided in the agreement. In such cases the tribunals may include properly qualified lawyers designated by the other member nations.

(d) The Military Governor shall designate one of the members of the tribunal to serve as the presiding judge.

(e) Neither the tribunals nor the members of the tribunals or the alternates may be challenged by the prosecution or by the defendants or their counsel.

(f) In case of illness of any member of a tribunal or his incapacity for some other reason, the alternate, if one has been designated, shall take his place as a member in the pending trial. Members may be replaced for reasons of health or for other good reasons, except that no replacement of a member may take place, during a trial, other than by the alternate. If no alternate has been designated, the trial shall be continued to conclusion by the remaining members.

(g) The presence of three members of the tribunal or of two members when authorized pursuant to subsection (f) *supra* shall be necessary to constitute a quorum. In the case of tribunals designated under (c) above the agreement shall determine the requirements for a quorum.

(h) Decisions and judgments, including convictions and sentences, shall be by majority vote of the members. If the votes of the members are equally divided, the presiding member shall declare a mistrial.

Article III

(a) Charges against persons to be tried in the tribunals established hereunder shall originate in the Office of the Chief of Counsel for War Crimes, appointed by the Military Governor pursuant to paragraph 3 of the Executive Order Numbered 9679 of the President of the United States dated 16 January 1946. The Chief of Counsel for War Crimes shall determine the persons to be tried by the tribunals and he or his designated representative shall file the

indictments with the Secretary General of the tribunals (see Article XIV, *infra*) and shall conduct the prosecution.

(b) The Chief of Counsel for War Crimes, when in his judgment it is advisable, may invite one or more United Nations to designate representatives to participate in the prosecution of any case.

Article IV

In order to ensure fair trial for the defendants, the following procedure shall be followed:

(a) A defendant shall be furnished, at a reasonable time before his trial, a copy of the indictment and of all documents lodged with the indictment, translated into a language which he understands. The indictment shall state the charges plainly, concisely and with sufficient particulars to inform defendant of the offenses charged.

(b) The trial shall be conducted in, or translated into, a language which the defendant understands.

(c) A defendant shall have the right to be represented by counsel of his own selection, provided such counsel shall be a person qualified under existing regulations to conduct cases before the courts of defendant's country, or any other person who may be specially authorized by the tribunal. The tribunal shall appoint qualified counsel to represent a defendant who is not represented by counsel of his own selection.

(d) Every defendant shall be entitled to be present at his trial except that a defendant may be proceeded against during temporary absences if in the opinion of the tribunal defendant's interests will not thereby be impaired, and except further as provided in Article VI (c). The tribunal may also proceed in the absence of any defendant who has applied for and has been granted permission to be absent.

(e) A defendant shall have the right through his counsel to present evidence at the trial in support of his defense, and to cross-examine any witness called by the prosecution.

(f) A defendant may apply in writing to the tribunal for the production of witnesses or of documents. The application shall state where the witness or document is thought to be located and shall also state the facts to be proved by the witness or the document and the relevancy of such facts to the defense. If the tribunal grants the application, the defendant shall be given such aid in obtaining production of evidence as the tribunal may order.

Article V

The tribunals shall have the power

(a) to summon witnesses to the trial, to require their attendance and testimony and to put questions to them;

(b) to interrogate any defendant who takes the stand to testify in his own behalf, or who is called to testify regarding another defendant;

(c) to require the production of documents and other evidentiary material;

(d) to administer oaths;

(e) to appoint officers for the carrying out of any task designated by the tribunals including the taking of evidence on commission;

(f) to adopt rules of procedure not inconsistent with this Ordinance. Such rules shall be adopted, and from time to time as necessary, revised by the members of the tribunal or by the committee of presiding judges as provided in Article XIII.

Article VI

The tribunals shall

(a) confine the trial strictly to an expeditious hearing of the issues raised by the charges;

(b) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevant issues and statements of any kind whatsoever;

(c) deal summarily with any contumacy, imposing appropriate punishment, including the exclusion of any defendant or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article VII

The tribunals shall not be bound by technical rules of evidence. They shall adopt and apply to the greatest possible extent expeditious and nontechnical procedure, and shall admit any evidence which they deem to have probative value. Without limiting the foregoing general rules, the following shall be deemed admissible if they appear to the tribunal to contain information of probative value relating to the charges: affidavits, depositions, interrogations, and other statements, diaries, letters, the records, findings, statements and judgments of the military tribunals and the reviewing and confirming authorities of any of the United Nations, and copies of any document or other secondary evidence of the contents of any document, if the original is not readily available or cannot be produced without delay. The tribunal shall afford the opposing party such opportunity to question the authenticity or probative value of such evidence as in the opinion of the tribunal the ends of justice require.

Article VIII

The tribunals may require that they be informed of the nature of any evidence before it is offered so that they may rule upon the relevance thereof.

Article IX

The tribunals shall not require proof of facts of common knowledge but shall take judicial notice thereof. They shall also take judicial notice of official governmental documents and reports of any of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other tribunals of any of the United Nations.

Article X

The determinations of the International Military Tribunal in the judgments in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary.

Article XI

The proceedings at the trial shall take the following course:

(a) The tribunal shall inquire of each defendant whether he has received

and had an opportunity to read the indictment against him and whether he pleads "guilty" or "not guilty."

(b) The prosecution may make an opening statement.

(c) The prosecution shall produce its evidence subject to the cross examination of its witnesses.

(d) The defense may make an opening statement.

(e) The defense shall produce its evidence subject to the cross examination of its witnesses.

(f) Such rebutting evidence as may be held by the tribunal to be material may be produced by either the prosecution or the defense.

(g) The defense shall address the court.

(h) The prosecution shall address the court.

(i) Each defendant may make a statement to the tribunal.

(j) The tribunal shall deliver judgment and pronounce sentence.

Article XII

A Central Secretariat to assist the tribunals to be appointed hereunder shall be established as soon as practicable. The main office of the Secretariat shall be located in Nurnberg. The Secretariat shall consist of a Secretary General and such assistant secretaries, military officers, clerks, interpreters and other personnel as may be necessary.

Article XIII

The Secretary General shall be appointed by the Military Governor and shall organize and direct the work of the Secretariat. He shall be subject to the supervision of the members of the tribunals, except that when at least three tribunals shall be functioning, the presiding judges of the several tribunals may form the supervisory committee.

Article XIV

The Secretariat shall:

(a) Be responsible for the administrative and supply needs of the Secretariat and of the several tribunals.

(b) Receive all documents addressed to tribunals.

(c) Prepare and recommend uniform rules of procedure, not inconsistent with the provisions of this Ordinance.

(d) Secure such information for the tribunals as may be needed for the approval or appointment of defense counsel.

(e) Serve as liaison between the prosecution and defense counsel.

(f) Arrange for aid to be given defendants and the prosecution in obtaining production of witnesses or evidence as authorized by the tribunals.

(g) Be responsible for the preparation of the records of the proceedings before the tribunals.

(h) Provide the necessary clerical, reporting and interpretative services to the tribunals and its members, and perform such other duties as may be required for the efficient conduct of the proceedings before the tribunals, or as may be requested by any of the tribunals.

Article XV

The judgments of the tribunals as to the guilt or the innocence of any defendant shall give the reasons on which they are based and shall be final and not subject to review. The sentences imposed may be subject to review as provided in Article XVII, *infra*.

Article XVI

The tribunal shall have the right to impose upon the defendant, upon conviction, such punishment as shall be determined by the tribunal to be just, which may consist of one or more of the penalties provided in Article II, Section 3 of Control Council Law No. 10.

Article XVII

(a) Except as provided in (b) *infra*, the record of each case shall be forwarded to the Military Governor who shall have the power to mitigate, reduce or otherwise alter the sentence imposed by the tribunal, but may not increase the severity thereof.

(b) In cases tried before tribunals authorized by Article II (c), the sentence shall be reviewed jointly by the zone commanders of the nations involved, who may mitigate, reduce or otherwise alter the sentence by majority vote, but may not increase the severity thereof. If only two nations are represented, the sentence may be altered only by the consent of both zone commanders.

Article XVIII

No sentence of death shall be carried into execution unless and until confirmed in writing by the Military Governor. In accordance with Article III, Section 5 of Law No. 10, execution of the death sentence may be deferred by not to exceed one month after such confirmation if there is reason to believe that the testimony of the convicted person may be of value in the investigation and trial of other crimes.

Article XIX

Upon the pronouncement of a death sentence by a tribunal established thereunder and pending confirmation thereof, the condemned will be remanded to the prison or place where he was confined and there be segregated from the other inmates, or be transferred to a more appropriate place of confinement.

Article XX

Upon the confirmation of a sentence of death the Military Governor will issue the necessary orders for carrying out the execution.

Article XXI

Where sentence of confinement for a term of years has been imposed the condemned shall be confined in the manner directed by the tribunal imposing sentence. The place of confinement may be changed from time to time by the Military Governor.

Article XXII

Any property declared to be forfeited or the restitution of which is ordered by a tribunal shall be delivered to the Military Governor, for disposal in accordance with Control Council Law No. 10, Article II (3).

Article XXIII

Any of the duties and functions of the Military Governor provided for herein may be delegated to the Deputy Military Governor. Any of the duties and functions of the Zone Commander provided for herein may be exercised

by and in the name of the Military Governor and may be delegated to the Deputy Military Governor.

This Ordinance becomes effective 18 October 1946.

BY ORDER OF MILITARY GOVERNMENT.

MILITARY GOVERNMENT—GERMANY
ORDINANCE NO. 11

AMENDING MILITARY GOVERNMENT ORDINANCE NO. 7 OF 18 OCTOBER 1946, ENTITLED "ORGANIZATION AND POWERS OF CERTAIN MILITARY TRIBUNALS"

Article I

Article V of Ordinance No. 7 is amended by adding thereto a new subdivision to be designated "(g)", reading as follows:

"(g) The presiding judges, and, when established, the supervisory committee of presiding judges provided in Article XIII shall assign the cases brought by the Chief of Counsel for War Crimes to the various Military Tribunals for trial."

Article II

Ordinance No. 7 is amended by adding thereto a new article following Article V to be designated Article V-B, reading as follows:

"(a) A joint session of the Military Tribunals may be called by any of the presiding judges thereof or upon motion, addressed to each of the Tribunals, of the Chief of Counsel for War Crimes or of counsel for any defendant whose interests are affected, to hear argument upon and to review any interlocutory ruling by any of the Military Tribunals on a fundamental or important legal question either substantive or procedural, which ruling is in conflict with or is inconsistent with a prior ruling of another of the Military Tribunals.

"(b) A joint session of the Military Tribunals may be called in the same manner as provided in subsection (a) of this Article to hear argument upon and to review conflicting or inconsistent final rulings contained in the decisions or judgments of any of the Military Tribunals on a fundamental or important legal question, either substantive or procedural. Any motion with respect to such final ruling shall be filed within ten (10) days following the issuance of decision or judgment.

"(c) Decisions by joint sessions of the Military Tribunals, unless thereafter altered in another joint session, shall be binding upon all the Military Tribunals. In the case of the review of final rulings by joint sessions, the judgments reviewed may be confirmed or remanded for action consistent with the joint decision.

"(d) The presence of a majority of the members of each Military Tribunal then constituted is required to constitute a quorum.

"(e) The members the Military Tribunals shall, before any joint session begins, agree among themselves upon the selection from their number of a member to preside over the joint session.

"(f) Decisions shall be by majority vote of the members. If the votes of the members are equally divided, the vote of the member presiding over the session shall be decisive."

Article III

Subdivisions (g) and (h) of Article XI of Ordinance No. 7 are deleted; subdivision (i) is relettered "(h)"; subdivision (j) is relettered "(i)"; and a new subdivision, to be designated "(g)", is added, reading as follows:

"(g) The prosecution and defense shall address the court in such order as the Tribunal may determine."

This Ordinance becomes effective 17 February 1947.

BY ORDER OF THE MILITARY GOVERNMENT.

OFFICIALS OF THE OFFICE OF THE SECRETARY GENERAL

Secretaries General

MR. CHARLES E. SANDS..... From 25 October 1946 to 17 November 1946.
MR. GEORGE M. READ..... From 18 November 1946 to 19 January 1947.
MR. CHARLES E. SANDS..... From 20 January 1947 to 18 April 1947.
COLONEL JOHN E. RAY..... From 19 April 1947 to 9 May 1948.
DR. HOWARD H. RUSSELL..... From 10 May 1948 to 2 October 1949.

Deputy and Executive Secretaries General

MR. CHARLES E. SANDS..... Deputy from 18 November 1946 to 19 January 1947.
JUDGE RICHARD D. DIXON..... Acting Deputy from 25 November 1946 to 5 March 1947.
MR. HENRY A. HENDRY..... Deputy from 6 March 1947 to 9 May 1947.
MR. HOMER B. MILLARD..... Executive Secretary General from 3 March 1947 to 5 October 1947.
LIEUTENANT COLONEL
HERBERT N. HOLSTEN..... Executive Secretary General from 6 October 1947 to 30 April 1949.

Assistant Secretaries General

[Since many trials were being held simultaneously, an Assistant Secretary General was designated by the Secretary General for each case. Assistant Secretaries General are listed with the members of each tribunal.]

Marshals of Military Tribunals

COLONEL CHARLES W. MAYS..... From 4 November 1946 to 5 September 1947.
COLONEL SAMUEL L. METCALFE..... From 7 September 1947 to 29 August 1948.
CAPTAIN KENYON S. JENCKES..... From 30 August 1948 to 30 April 1949.

Court Archives

MRS. BARBARA S. MANDELLAUB..... Chief from 21 February 1947 to 15 November 1949.

Defense Information Center

MR. LAMBERTUS WARTENA..... Defense Administrator from 3 March 1947 to 16 September 1947.
LIEUTENANT COLONEL
HERBERT N. HOLSTEN..... Defense Administrator from 17 September 1947 to 19 October 1947.
MAJOR ROBERT G. SCHAEFER..... Defense Administrator from 20 October 1947 to 30 April 1949.

"The High Command Case"

Military Tribunal V

CASE 12

THE UNITED STATES OF AMERICA

—against—

WILHELM VON LEEB, HUGO SPERRLE, GEORG KARL FRIEDRICH-WILHELM VON KUECHLER, JOHANNES BLASKOWITZ, HERMANN HOTH, HANS REINHARDT, HANS VON SALMUTH, KARL HOLLIDT, OTTO SCHNIEWIND, KARL VON ROQUES, HERMANN REINECKE, WALTER WARLIMONT, OTTO WOEHLE, and RUDOLF LEHMANN, *Defendants*

INTRODUCTION

The "High Command Case" was officially designated *United States of America vs. Wilhelm von Leeb, et al.* (Case No. 12.) The defendants held various leading command or staff positions in the German Armed Forces. They were charged with having committed, together with other leaders of the Third Reich, crimes against peace, war crimes, and crimes against humanity, and with having participated in a common plan or conspiracy to commit crimes against peace.

Count one of the indictment charged that the defendants committed crimes against peace by participating in wars and invasions aggressive in character and violative of international treaties, agreements, and assurances. Under count four the defendants were charged with participation in the formulation and execution of a common plan and conspiracy to commit crimes against peace. Count two dealt chiefly with prisoners of war, alleging that war crimes and crimes against humanity were committed by the murder and ill-treatment of prisoners of war, including murders committed in the execution of the so-called "Commando," and "Terror Flyer," orders. Under count three the defendants were charged with crimes involving the conduct of the German Army in occupied countries, and including the execution of thousands of hostages, the killing of partisans and the killing of civilians on suspicion in execution of the "Barbarossa Jurisdiction Order," the plunder and spoliation of property not justified by military necessity, the commitment of civilians to slave labor, the persecution and extermination of "racially," or "politically inferior" people in execution of the "Commissar" order and other orders. The defendant Blaskowitz committed suicide on the morning of 5 February 1948, the day of the opening statement of the prosecution, and hence only 13 defendants stood trial. The Tribunal found none of the defendants guilty of crimes against peace. Findings of guilt were as to 11 defendants under the charges of war crimes and crimes against humanity in counts two and three of the indictment.

The High Command Case was tried at the Palace of Justice in Nuernberg before Military Tribunal VA. The Tribunal convened 233 times, and the trial lasted approximately ten months, as shown by the following schedule:

Indictment filed	28 November 1947
Arraignment	30 December 1947
Prosecution opening statement	5 February 1948
Defense opening statements	12 April 1948
Prosecution closing statement	10 August 1948
Defense closing statements	10-13 August 1948
Judgment	27, 28 October 1948
Sentences	28 October 1948
Affirmation of sentences by the Military Governor of the United States Zone of Occupation	10 March 1949
Order of the Supreme Court of the United States denying Writs of Habeas Corpus	2 May 1949

The English transcript of the Court proceedings including the judgment and sentences runs to 10,316 mimeographed pages. The prosecution introduced into evidence 1,778 written exhibits (some of which contained several documents), and the defense 2,130 written exhibits. Counsel for the defendants requested that they be supplied with captured German documents which had been sent to archives of the Department of the Army in Washington, D. C. To this end the Tribunal ordered the Secretary General to procure a large amount of captured documents from Washington, which resulted in the shipment of approximately 1,500 document folders filling 37 footlockers. Defense counsel and the defendants were permitted to examine these documents and to make such use thereof in the presentation of their case as they deemed necessary. The Tribunal heard oral testimony of 32 witnesses called by the prosecution and of 65 witnesses, excluding the defendants, called by the defense. Defendant Sperrle did not take the witness stand. Each of the other defendants standing trial testified on his own behalf, and each was subject to examination on behalf of the other defendants. The exhibits offered by both the prosecution and defense contained documents, photographs, affidavits, interrogatories, letters, maps, charts, and other written evidence. The case in chief of the prosecution began on 5 February 1948, and was completed on 5 March 1948, and the case for the defense began on 12 April 1948, and lasted until 10 August 1948. The Tribunal was in recess between 5 March 1948 and 12 April 1948, to give the defense additional time to prepare its case.

The members of the Tribunal and prosecution and defense counsel are listed on the ensuing pages. Prosecution counsel were assisted in preparing the case by Walter H. Rapp (Chief of the Evidence Division); Peter Beauvais, Fred Kaufman, Guillaume Koch, Curt Ponger, and Benno Selcke, interrogators; and Margit

L. Braid, Elizabeth Hardy, Charles E. Ippen, Otto A. Newman, Frank W. Young, and Marshal Webster, research and documentary analysts.

Much of the documentary evidence of the prosecution as well as the defense material ordered by the Tribunal was supplied by the Washington Screening Team.

Selection and arrangement of the High Command Case material published herein was accomplished principally by George B. Fulkerson, Paul Horecky, and Arnost Horlick-Hochwald, working under the general supervision of Drexel A. Sprecher, Deputy Chief Counsel and Director of Publications, Office, U. S. Chief of Counsel for War Crimes. Catherine W. Bedford, Henry Buxbaum, Emilie Evand, Gertrude Ferencz, Paul H. Gantt, Helga Lund, Gwendoline Niebergall, and Enid M. Standring assisted in selecting, compiling, editing, and indexing the numerous papers.

John H. E. Fried, Special Legal Consultant to the Tribunals, reviewed and approved the selection and arrangement of the materials as the designated representative of the Nuernberg Military Tribunals.

Final compilation and editing of the manuscript for printing was administered by the War Crimes Division, Office of The Judge Advocate General, under the direct supervision of Richard A. Olbeter, Chief, Special Projects Branch, with Amelia Rivers as editor and John W. Mosenthal as research analyst.

ORDER CONSTITUTING THE TRIBUNAL

HEADQUARTERS EUROPEAN COMMAND

GENERAL ORDERS }
No. 137 }

24 December 1947

PURSUANT TO MILITARY GOVERNMENT ORDINANCE NO. 7

1. Effective 23 December 1947, pursuant to Military Government Ordinance No. 7, 24 October 1946, entitled, "Organization and Powers of Certain Military Tribunals", there is hereby constituted Military Tribunal V A.

2. The following are designated as members of Military Tribunal V A:

JOHN C. YOUNG	Presiding Judge
WINFIELD B. HALE	Judge
JUSTIN W. HARDING	Judge

3. The Tribunal shall convene at Nuernberg, Germany, to hear such cases as may be filed by the Chief of Counsel for War Crimes or by his duly designated representative.

4. Upon completion of the case presently pending before Military Tribunal V, and upon the dissolution of that Tribunal, Military Tribunal V A, shall be known as Military Tribunal V.

BY COMMAND OF GENERAL CLAY:

C. R. HUEBNER
Lieutenant General, GSC
Chief of Staff

OFFICIAL

G. H. GARDE
Lieutenant Colonel, AGD
Asst. Adjutant General

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MEMBERS OF THE TRIBUNAL

JUDGE JOHN C. YOUNG, Presiding.

Formerly Chief Justice of the Supreme Court of the State of Colorado.

JUDGE WINFIELD B. HALE, Member.

Judge of the Court of Appeals of the State of Tennessee.

JUDGE JUSTIN W. HARDING, Member.

Formerly District Judge of the First Division, Territory of Alaska.

ASSISTANT SECRETARIES GENERAL

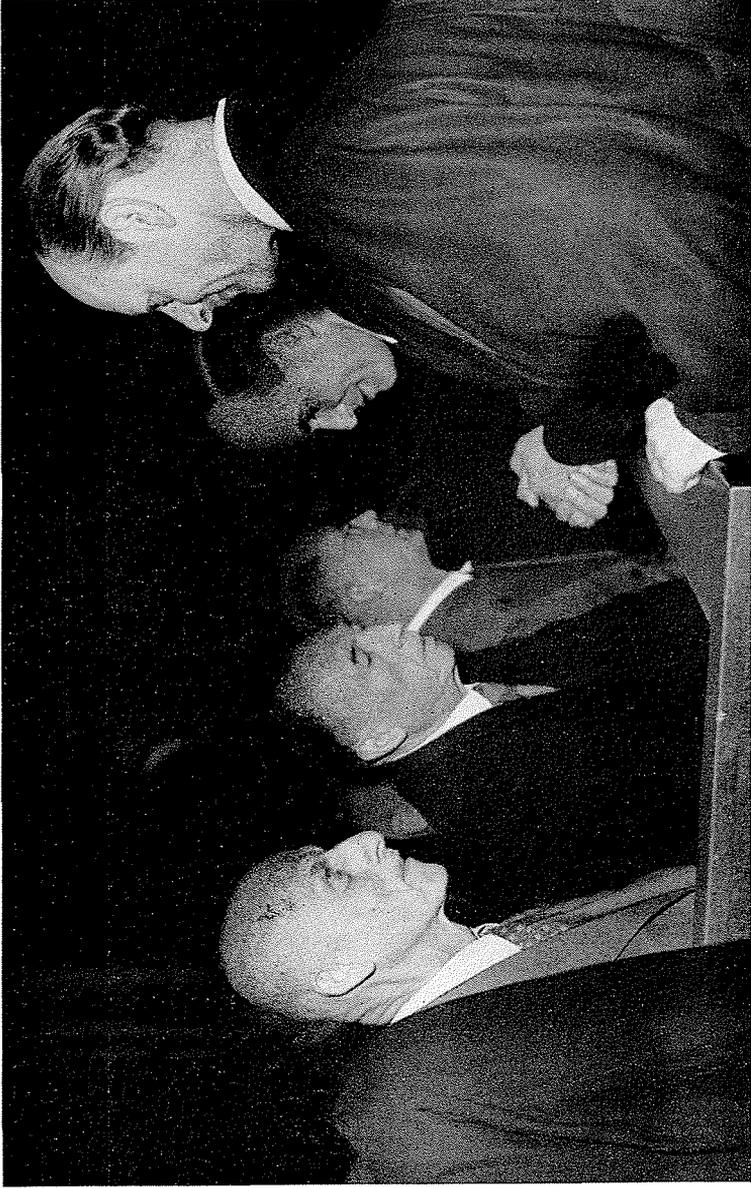
CAPT. EVERT C. WAY.....30 December 1947
MR. JOHN L. STONE.....5 February 1948 to 13 February 1948
CAPT. EVERT C. WAY.....16 February 1948 to 5 March 1948
MR. CHARLES G. WILLSIE.....8 March 1948 to 9 March 1948
CAPT. EVERT C. WAY.....8 April 1948 to 21 April 1948
MR. JOHN C. KNAPP.....22 April 1948 to 23 April 1948
CAPT. EVERT C. WAY.....26 April 1948 to 29 October 1948



General view of the courtroom. Upper left: Court reporter and translators. Left: Defendants and defense counselors. At rostrum: Brigadier General Telford Taylor presenting the prosecution's opening statement. At right: Judges and court personnel. In foreground: Members of the prosecution staff.



The defendants in the dock are, left to right: Field Marshal Wilhelm von Leeb, Field Marshal Hugo Sperrle, Field Marshal Georg von Kuechler, General Hermann Hoth, General Hans Reinhardt, General Hans von Salmuth, General Karl Hollidt, Admiral Otto Schniewind, Lt. Gen. Karl von Rogues, Lt. Gen. Hermann Reinecke, (back row) Lt. Gen. Walter Warlimont, Lt. Gen. Otto Woehler, and Lt. Gen. Rudolf Lehmann. Seated in front of the dock are the defense counselors.



During a recess of the Court, German defense attorney, Dr. Hans Latenser (extreme right) confers with his client, Field Marshal Wilhelm von Leeb (first man seated in the dock). Seated next to von Leeb is Field Marshal Georg Karl Friedrich-Wilhelm von Kuechler.

PROSECUTION COUNSEL¹

Chief of Counsel:

BRIGADIER GENERAL TELFORD TAYLOR

Deputy Chief Counsel:

MR. JAMES M. MCHANEY

Chief Prosecutor:

MR. PAUL NIEDERMAN

Associate Counsel:

MR. MORTON M. BARBOUR

MR. GEORGE B. FULKERSON

MR. EUGENE H. DOBBS

MR. JAMES R. HIGGINS

MR. PAUL L. HORECKY

MR. ARNOST HORLICK-HOCHWALD

MR. WALTER H. RAPP

DEFENSE COUNSEL

<i>Defendants</i>	<i>Defense Counsel</i>	<i>Associate Defense Counsel</i>
LEEB, WILHELM VON	DR. HANS LATERNSEER	HANS WILHELM LIER
SPERLE, HUGO	DR. KURT GOLLNICK	DR. GERHARD WEIS
KUECHLER, GEORG KARL FRIEDRICH-WILHELM VON	DR. KURT BEHLING	KARL MUELLER
BLASKOWITZ, JOHANNES ²	DR. HEINZ MUELLER- TORGOW	
HOTH, HERMANN	DR. HEINZ MUELLER- TORGOW	DR. HANS JOACHIM JUNG
REINHARDT, HANS	DR. FRIEDRICH FROHWEIN	DR. HAROLD LUCHT
SALMUTH, HANS VON	DR. KURT GOLLNICK	OTTO MOELLER
HOLLIDT, KARL	DR. STEFAN FRITSCH	OSKAR VON JAGWITZ
SCHNIEWIND, OTTO	HANS MECKEL	DR. KARL HEINRICH HAGEMANN
ROQUES, KARL VON	DR. EDMUND TIPP	DR. DORA SCHULZ
REINECKE, HERMANN	DR. HANS SURHOLT	DR. WALTER BEIER
WARLIMONT, WALTER	DR. PAUL LEVERKUEHN	HANS RICHARD GIESE
WOEHLER, OTTO	DR. GERHARD RAUSCHENBACH	LUDWIG KOHR
LEHMANN, RUDOLF	DR. RUPPRECHT VON KELLER	DR. OTTO GRUENEWALD

¹ Only those members of prosecution counsel who spoke before the Tribunal are listed. Mr. James S. Conway and Mr. Robert Rosenthal participated actively as counsel in the preparation of the case for trial.

² Committed suicide 5 February 1948.

I. INDICTMENT

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The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said Government in the prosecution of war criminals, charges that the defendants herein, with divers other persons, including Erich Raeder, Gerd von Rundstedt, Walther von Brauchitsch, Fedor von Bock, Wilhelm Keitel, Fritz Erich von Manstein and Alfred Jodl (see Appendix, pp. 48-55) committed crimes against peace, war crimes and crimes against humanity, and participated in a common plan and conspiracy to commit crimes against peace, all as defined in Control Council Law Number 10, duly enacted by the Allied Control Council on 20 December 1945. These crimes included planning, preparing, initiating, and waging of wars of aggression

and invasions of other countries; murder, torture, deportation, enslavement into forced labor and mistreatment of millions of persons; plunder of public and private property, wanton devastation, and destruction of cities, towns and, villages; and other grave crimes as set forth in this indictment.

The persons accused as guilty of these crimes and accordingly named as defendants in this case are—

WILHELM VON LEEB—Generalfeldmarschall (General of the Army); October 1935 to February 1938, Commander in Chief Army Group Command (Heeresgruppenkommando) 2; October 1938 to November 1938, Commander in Chief 12th Army; September 1939 to May 1941, Commander in Chief Army Group C; June 1941 to January 1942, Commander in Chief Army Group North.

HUGO SPERRLE—Generalfeldmarschall (General of the Army); November 1936 to October 1937, Commander of the "Condor Legion" in Spain; February 1938 to January 1939, Commanding General of Air Group (Luftgruppe) 3; February 1939 to August 1944, Commander in Chief Air Fleet (Luftflotte) 3.

GEORG KARL FRIEDRICH-WILHELM VON KUECHLER—Generalfeldmarschall (General of the Army); September 1939, Commander in Chief 3d Army; October and November 1939, Commander of East Prussian Defense Zone; November 1939 to January 1942, Commander in Chief 18th Army; January 1942 to January 1944, Commander in Chief Army Group North.

JOHANNES BLASKOWITZ—Generaloberst (General); November 1938 to August 1939, Commander in Chief Army Group Command (Heeresgruppenkommando) 3; September 1939 to October 1939, Commander in Chief 8th Army; October 1939, Commander in Chief 2d Army; October 1939 to May 1940, Commander in Chief East (Oberbefehlshaber Ost); May 1940, Commander in Chief 9th Army; June 1940, Military Commander (Militärbefehlshaber) Northern France; October 1940 to May 1944, Commander in Chief 1st Army; May 1944 to September 1944, Acting Commander in Chief Army Group G; December 1944 to January 1945, Commander in Chief Army Group G; January 1945 to April 1945, Commander in Chief Army Group H; April 1945, Commander in Chief Netherlands and 25th Army.

HERMANN HOTH—Generaloberst (General); November 1938 to November 1940, Commanding General XV Corps; November 1940 to October 1941, Commander Panzer Group 3; October 1941 to April 1942, Commander in Chief 17th Army; May 1942 to December 1943, Commander in Chief 4th Panzer Army.

HANS REINHARDT—Generaloberst (General); October 1938 to February 1940, Commander 4th Panzer Division; February 1940

to October 1941, Commanding General XLI Corps; October 1941 to August 1944, Commander of Panzer Group 3 (later 3d Panzer Army); August 1944 to January 1945, Acting Commander in Chief Army Group Center.

HANS VON SALMUTH—Generaloberst (General); 1937 to August 1939, Chief of Staff Army Group Command (Heeresgruppenkommando) 1; September and October 1939, Chief of Staff Army Group North; October 1939 to May 1941, Chief of Staff Army Group B; May 1941 to February 1942, Commanding General XXX Corps; April and May 1942, Acting Commander in Chief 17th Army; June and July 1942, Acting Commander in Chief 4th Army; July 1942 to February 1943, Commander in Chief 2d Army; August 1943 to August 1944, Commander in Chief 15th Army.

KARL HOLLIDT—Generaloberst (General); November 1938 to August 1939, Commander of Infantry (Infanteriefuehrer) in District 9; September 1939, Commander 52d Infantry Division; September 1939 to October 1939, Chief of Staff 5th Army; October 1939 to May 1940, Chief of Staff to the Commander in Chief East; May 1940 to October 1940, Chief of Staff 9th Army; October 1940 to January 1942, Commander 50th Infantry Division; January 1942 to December 1942, Commanding General XVII Corps; December 1942 to March 1943, Commander Army (Armeeabteilung) Hollidt; March 1943 to April 1944, Commander in Chief 6th Army.

OTTO SCHNIEWIND—Generaladmiral (Admiral); November 1937 to November 1938, Chief of Navy Armament Office (Marine-Wehr-Amt); November 1938 to May 1941, Chief of the Navy Command Office (Marine-Kommando-Amt), and Chief of Staff of the Naval War Staff (Seekriegsleitung); June 1941 to July 1944, Commander of the Fleet (Flottenchef); March 1942 to August 1942, Commander of Naval Battle Forces (Flottenstreitkraefte) in Norway; March 1943 to May 1944, Commander of Naval Group North (Marinegruppe Nord).

KARL VON ROQUES—General der Infanterie (Lieutenant General, Infantry); April 1940 to March 1941, Commander of a Division in the Zone of the Interior; March 1941 to June 1942, Commander Rear Area, Army Group (rueckwaertiges Heeresgebiet) South; September and October 1941, Commanding General of Group (Armeegruppe) von Roques, July 1942 to December 1942, Commander Rear Area, Army Group A.

HERMANN REINECKE—General der Infanterie (Lieutenant General, Infantry); January 1939 to December 1939, Chief of the Department "Armed Forces General Affairs" (Amtsgruppe Allgemeine Wehrmacht-Angelegenheiten) in the High Command of the Armed Forces (Oberkommando der Wehrmacht "OKW");

1939 to 1945, Chief of the General Office of the OKW (Allgemeines Wehrmachtamt); 1943 to 1945, Chief of the National Socialist Guidance Staff of the OKW (N.S. Fuehrungsstab im OKW).

WALTER WARLIMONT—General der Artillerie (Lieutenant General, Artillery); August to November 1936, Military Envoy to General Franco in Spain, and Leader of the German Volunteer Corps; November 1938 to September 1944, Chief of Department National Defense (Landesverteidigung (L)), in the Armed Forces Operations Staff (Wehrmachtfuehrungsstab "WFSt") of the OKW; January 1942 to September 1944, Deputy Chief "WFSt".

OTTO WOEHLE—General der Infanterie (Lieutenant General, Infantry); April 1938, Ia (Operations Officer) Army Group 5 (later changed to AOK 14); October 1939 to October 1940, Chief of Staff XVII Corps; October 1940 to May 1942, Chief of Staff 11th Army; May 1942 to February 1943, Chief of Staff Army Group Center; February 1943 to July 1943, Commanding General I Corps; July and August 1943, Acting Commander XXVI Corps; August 1943 to December 1944, Commander in Chief 8th Army; December 1944 to April 1945, Commander in Chief Army Group South.

RUDOLF LEHMANN—Generaloberstabsrichter (Lieutenant General, Judge Advocate); July 1938 to May 1944, Ministerial Director in the OKW and Chief of the Legal Division (Wehrmachtrechts-wesen—"WR"); May 1944 to May 1945, Judge Advocate General of the OKW (Generaloberstabsrichter).

Reference is hereby made to the Appendix (pp. 48-55) of this indictment for a more complete statement of the positions held by each of the defendants.

COUNT ONE—CRIMES AGAINST PEACE

1. All of the defendants, with divers other persons, including the coparticipants listed in the Appendix, during a period of years preceding 8 May 1945, committed crimes against peace as defined in Article II of Control Council Law Number 10, in that they participated in the initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to the planning, preparation, initiation, and waging of wars of aggression, and wars in violation of international treaties, agreements and assurances.

2. The defendants held high military positions in Germany and committed crimes against peace in that they were principals in,

accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with, the commission of crimes against peace.

3. The invasions and wars referred to and the dates of their initiation were as follows: Austria, 12 March 1938; Czechoslovakia, 1 October 1938 and 15 March 1939; Poland, 1 September 1939; the United Kingdom and France, 3 September 1939; Denmark and Norway, 9 April 1940; Belgium, the Netherlands, and Luxembourg, 10 May 1940; Yugoslavia and Greece, 6 April 1941; the U.S.S.R., 22 June 1941; and the United States of America, 11 December 1941.

4. The origins, development, and background of the crimes which the defendants herein committed, and the criminal plans in which they participated, may be traced through many decades of German militarism. After World War I, the leaders of the German Army and Navy collaborated with each other and with German armament manufacturers to evade, by clandestine means, the limitations which the Versailles Treaty had imposed on the German Armed Forces. The creation of a Wehrmacht so large and powerful that Germany could expand her geographical boundaries by force or threat of force was the prime objective of Germany's military leaders and the Nazis alike, and was the foundation stone of their collaboration. Soon after Hitler came to political power, Germany withdrew from the International Disarmament Conference and the League of Nations, and in May 1934 Raeder issued a top secret armament plan "with primary view to readiness for a war without any alert period." Naval construction in violation of treaty limits was intensified under the Third Reich, and in 1935 Germany openly announced the establishment of the German Air Force. In March 1935 military service was made compulsory in Germany, and the same year the peacetime strength of the German Army was established at 500,000 men. The German military leaders, in collaboration with certain political and industrial leaders, thereafter brought about an enormous expansion of the German Armed Forces, and organized the entire nation "as a great political military army" in preparation for German conquest. At the same time, and in the course of planning and preparing for aggressive wars, the Third Reich adopted a policy of strengthening "Nazi" and "Fascist" political movements in other countries, and entered into alliances or close relations with other countries, notably Italy and Japan, which secured their support for, and participation in, Germany's program of conquest by military force. When civil war broke out in Spain, Germany's military and political leaders sent troops and arms, for the purpose of establishing

a new regime in Spain which would support the Third Reich in its aggressive and warlike policies, and in order to exploit the civil war as a testing ground for German planes and other arms and as a training ground for German pilots and other troops. The defendant WARLIMONT was the first commander of the German troops in Spain; subsequently these troops became known as the "Condor Legion", of which the defendant SPERRLE was the commander from November 1936 to November 1937. The policies and activities described in this paragraph greatly increased Germany's capacity to wage aggressive war, and led to the major aggressive steps hereinafter set forth.

A. Austria and Czechoslovakia

5. At least as early as November 1937, discussions took place between the military and political leaders of the Third Reich with respect to the destruction, by force or threat of force, of the independence of Austria and Czechoslovakia and the conquest of these countries. A plan for the military occupation of Austria, known as "Fall Otto" (Case Otto), had previously been prepared by the German military leaders. On 11 and 12 February 1938 Hitler summoned the Austrian Chancellor Schuschnigg to a conference at Berchtesgaden and subjected Schuschnigg to violent political and military threats in order to strengthen the Nazi Party in Austria and to undermine Austrian independence. The defendant SPERRLE, Keitel, and other military leaders participated in this meeting and in bringing pressure to bear on Schuschnigg. Thereafter, SPERRLE and other military leaders conducted a campaign of threatening military maneuvers in order to maintain military pressure against Austria. On 9 March 1938 in an attempt to preserve the independence of his country, Schuschnigg announced a plebiscite on the question of Austrian independence, to be held on 13 March 1938. On 10 March 1938 Hitler conferred with various military leaders, who thereafter commenced immediate preparations for the invasion of Austria in accordance with the preexisting plan ("Fall Otto"), and a German ultimatum was sent to Schuschnigg demanding that the plebiscite not be held. Mobilization orders were dispatched to the available units of the German Armed Forces. Schuschnigg succumbed to these threats, resigned, and was succeeded by Seyss-Inquart. On 12 March 1938 German troops marched into Austria, and the next day, pursuant to a "law" signed by Seyss-Inquart on behalf of Austria, and by Hitler and others on behalf of Germany, Austria was annexed to Germany.

6. After the annexation of Austria, the German military leadership, including Rundstedt, Brauchitsch, and Manstein, concen-

trated on plans for the destruction of Czechoslovakia. These plans were known as "Fall Gruen" (Case Green). On 30 May 1938, Hitler issued a military directive which announced his "unalterable decision to smash Czechoslovakia by military action in the near future". On 10 August 1938, the defendants LEEB, SPERRLE, KUECHLER, SALMUTH, and others met with Hitler at Berchtesgaden to discuss the timing of the planned attack on Czechoslovakia. During the next 6 weeks, the German Armed Forces were brought to an advanced state of preparation in accordance with the plan ("Fall Gruen") for the invasion of Czechoslovakia in which the German 12th Army, commanded by the defendant LEEB, and the German 2d Army, of which the defendant SALMUTH was chief of staff, would participate. As a result of violent military threats, and after the diplomatic conferences at Berchtesgaden and Bad Godesberg, the Government of Czechoslovakia capitulated to Hitler's demand for the cession of the Sudetenland, as provided for in the Munich Pact of 29 September 1938. Immediately thereafter, the Sudetenland was occupied by German forces under the command of the defendant LEEB.

7. On 11 October 1938, in response to an inquiry from Hitler, Keitel set forth certain estimates as to the amount of forces and time which would be required to break all military resistance in Bohemia and Moravia. On 21 October 1938, a new directive to the armed forces stated that "it must be possible to smash at any time the remainder of Czechoslovakia if her policy should become hostile towards Germany" and that a later order would specify "the future tasks for the armed forces and the preparation for the conduct of war resulting from those tasks". On 14 March 1939, the Czech President (Hacha) was summoned to Berlin and was threatened by Hitler, Keitel, and others with the immediate invasion of Bohemia and Moravia and the destruction of Prague by bombing unless the incorporation of Bohemia and Moravia into the Reich was consented to. On 15 March 1939, in flagrant violation of the Munich Pact, German troops, under the command of defendant BLASKOWITZ and others, occupied Bohemia and Moravia, and these states were incorporated into the Reich as a Protectorate by a decree of 16 March 1939.

B. Poland, France, and The United Kingdom

8. After the successful consummation of the above described invasions and preparations for aggressive war, the defendants herein, and other high military and political leaders of Germany, proceeded with their plans for the conquest of Poland. To this end, Brauchitsch as Commander in Chief of the Army was instructed by Hitler on 25 March 1939 that the Polish question was to be

worked on, that the timing of a solution would be based upon favorable political conditions, and that Poland should be knocked out so completely that it need not be taken into account as a political factor for decades. Work on military preparations was begun immediately. On 3 April 1939, "Fall Weiss" (Case White) was adopted as the code name for the plan to invade Poland, and Keitel, in a message to military leaders, gave as the main objective the destruction of the Polish Armed Forces. On 28 April 1939 Hitler delivered a public address in the Reichstag, complaining that "Poland, like Czechoslovakia, a year ago, believes under the pressure of a lying international campaign, that it must call up troops, although Germany on her part has not called up a single man and had not thought of proceeding in any way against Poland."

9. On 23 May 1939, Hitler held a meeting attended by SCHNIEWIND, WARLIMONT, Brauchitsch, and others, at which Hitler reiterated his intention to attack Poland. He stated that Danzig was not the subject of the dispute at all; that it was a question of expanding Germany's living space in the East and of securing food resources. He continued: "There is, therefore, no question of sparing Poland, and we are left with the decision to attack Poland at the first suitable opportunity. We cannot expect a repetition of the Czech affair. There will be war."

10. During the following three months, intensive and detailed preparations for war, based on "Fall Weiss", were undertaken by KUECHLER, BLASKOWITZ, REINHARDT, SALMUTH, HOLLIDT, SCHNIEWIND, WARLIMONT, Rundstedt, Brauchitsch, and Manstein, and by other military leaders. The over-all operational planning for "Fall Weiss" was initiated and worked out by the "Working Staff Rundstedt", headed by Rundstedt with Manstein as his chief of staff. Preparations were made on the basis of a surprise attack on Poland. By 15 June 1939, these plans had been prepared and distributed; KUECHLER and BLASKOWITZ were among those who received copies. Two army groups, Army Group South, commanded by Rundstedt and composed of the 14th, 10th, and 8th Armies, and Army Group North, commanded by Bock and composed of the 3d and 4th Armies, were formed in eastern Germany. A third army group, Army Group C, commanded by LEEB and composed of the 1st, 7th and 16th Armies and Panzer Group Guderian, was formed in western Germany. Conferences between the commanders of these army groups and armies took place frequently. As a result of these plans, by 22 June 1939, a preliminary timetable for the invasion of Poland was transmitted to Hitler. On 14 July 1939 the final timetable was completed and distributed to SCHNIEWIND, Brauchitsch, and other military leaders, along with orders for the taking of hos-

tages, treatment of partisans, arrest of Jews, internment of male Poles of the age group between 17 and 45, and similar orders.

11. On 22 August 1939, Hitler called a conference of military leaders to announce the decision to attack Poland at once. All the principal leaders of the armed forces, including the defendants LEEB, KUECHLER, BLASKOWITZ, SCHNIEWIND, WARLIMONT and others, were present. Hitler stated that it was clear to him that a conflict with Poland would come sooner or later; that he had determined upon a "solution by force." He confidently boasted that Brauchitsch had promised to bring the war against Poland to a conclusion within a few weeks.

12. During this period of planning for the Polish invasion, a series of frontier "incidents" were used to justify the impending attack. Among such manufactured incidents was a spurious attack on 31 August 1939, against the radio station at Gleiwitz, Germany, by Polish-speaking SS men in Polish uniforms. Earlier on the same day Hitler had issued his order to invade Poland on 1 September 1939, at 0445 hours. This invasion precipitated aggressive war also against the United Kingdom and France. Among the units which took part in the Polish attack were Army Group South, commanded by Rundstedt with Manstein as chief of staff; the 8th Army of that group, commanded by BLASKOWITZ; Army Group North, commanded by Bock, with SALMUTH as chief of staff; the 3d Army of that group, commanded by KUECHLER; the XV Corps, commanded by HOTH, and the 4th Panzer Division, commanded by REINHARDT.

C. Denmark and Norway

13. For some time prior to 10 October 1939, the German Naval War Staff had been considering the importance of Norway for sea and air warfare against England and France and had originated and developed plans for the invasion and occupation of Norway. On 10 October 1939, the leading members of the Naval War Staff urged upon Hitler the importance of such an invasion and, as the result of their influence, Hitler took the matter under consideration. On 12 December 1939, Hitler met with the Norwegians, Quisling, and Hagelin. Thereafter, during the month of December 1939, while WARLIMONT proceeded with preparations for the invasion of Norway, Hagelin maintained contact with SCHNIEWIND for the purpose of developing a *coup d'état* through the "Quisling Party", and giving the German Navy information, which was passed on to WARLIMONT. This collaboration between Quisling, Hagelin, SCHNIEWIND, and WARLIMONT continued through March 1940.

14. On 27 January 1940, Keitel issued a memorandum prepared by WARLIMONT's office concerning the planned invasion of Denmark and Norway and designating the operation "Weseruebung" (Weser Exercise). On 1 March 1940, Hitler issued a directive prepared in WARLIMONT's office for "Weseruebung", stating in part:

The development of the situation in Scandinavia requires the making of all preparations for the occupation of Denmark and Norway by a part of the German Armed Forces. * * * This operation should prevent British encroachment on Scandinavia and the Baltic; further it should guarantee our ore base in Sweden and give our navy and air force a wider starting line against Britain. * * * On principle we will do our utmost to make the operation appear as a *peaceful* occupation, the object of which is the military protection of the neutrality of the Scandinavian States. Corresponding demands will be transmitted to the governments at the beginning of the occupation. If necessary, demonstrations by the navy and the air force will provide the necessary emphasis. If, in spite of this, resistance should be met with, all military means will be used to crush it.

The staff (for the operation) is to be completed from all the three branches of the armed forces.

It is most important that the Scandinavian States as well as the western opponents should be *taken by surprise* by our measures. * * *

15. At the same time a working staff was formed within the Naval War Staff, and on 5 March 1940, at a conference within the navy, drafts of the first directives for the operation were prepared, with the approval of SCHNIEWIND. On 12 March 1940, SCHNIEWIND issued an order to various navy group commands giving tactical directives for landing locations in the invasion of Norway. On 9 April 1940, the German Armed Forces invaded Denmark and Norway.

16. Only the defendants SCHNIEWIND, REINECKE, WARLIMONT, and LEHMANN are charged with responsibility under paragraphs 13 to 15 inclusive of this count.

D. Belgium, The Netherlands and Luxembourg

17. On 23 May 1939, Hitler discussed with SCHNIEWIND, WARLIMONT, Brauchitsch and other high ranking Wehrmacht leaders the future tasks of the armed forces. Hitler said: "Dutch and Belgian air bases must be occupied. * * * Declarations of neutrality must be ignored. If England and France intend the war between Germany and Poland to lead to a conflict, they will support Holland and Belgium in their neutrality and make them

build fortifications, in order finally to force them into cooperation. * * * Therefore, if England intends to intervene in the Polish war, we must occupy Holland with lightning speed. * * * An effort must be made to deal the enemy a significant or the final decisive blow. Considerations of right, or wrong, or treaties do not enter into the matter. * * * If Holland and Belgium are successfully occupied and held, and if France is also divided, the fundamental conditions for a successful war against England will have been secured."

18. On 22 August 1939, in a conference previously described in paragraph 11 hereof, and attended by LEEB, KUECHLER, BLASKOWITZ, SCHNIEWIND, WARLIMONT, Rundstedt, Brauchitsch, Manstein, and other high-ranking officers, Hitler stated: "Another possibility is the violation of Dutch, Belgian, and Swiss neutrality. I have no doubt that all these states, as well as Scandinavia, will defend their neutrality by all available means. England and France will not violate the neutrality of these countries." On the same date and again on 6 October 1939, publicly and to the knowledge of these defendants, Hitler assured Belgium and Holland that he would respect their neutrality.

19. On 7 October 1939 Brauchitsch ordered LEEB and others to prepare for the immediate invasion of France, Luxembourg, Holland, and Belgium, and on 9 October 1939 Hitler distributed to Brauchitsch, as Commander in Chief of the Army, as well as to the Commanders in Chief of the Navy and Air Force, a memorandum requiring preparations to be made for an attacking operation through Luxembourg, Belgium, and Holland. In this memorandum Hitler stated that the only possible area of attack against France was through those countries, and that "The trifling significance of treaties of agreement has been proved on all sides in recent years." The commanders were ordered to keep Hitler fully informed of the state of preparation. On 19 October 1939, pursuant to Hitler's instructions, Brauchitsch distributed an over-all plan of operations, under the code name "Fall Gelb" (Case Yellow), for the offensive through the Low Countries. This was distributed to Rundstedt, as Commander in Chief of Army Group A, to LEEB of Army Group C, to SPERRLE, as Commander in Chief of Air Fleet 3, to BLASKOWITZ, as Commander of the 2d Army, and to other army and army group commanders; Manstein, as Chief of Staff of Army Group A, SALMUTH, as Chief of Staff of Army Group B, and WARLIMONT, as Deputy Chief of Operations of OKW, also received notice of this plan. From November to May 1940, the date of the invasion was repeatedly postponed for tactical reasons.

20. On 11 November 1939, Rundstedt, with Manstein as his Chief of Staff, held a conference with the commanders of the armies, corps, and divisions within his group, to consider the tactics necessary in the impending attack. On 16 November 1939, Army Group B issued its operational orders for the attack on Holland to subordinate units, including among others, the 9th Army with HOLLIDT as Chief of Staff and the 18th Army commanded by KUECHLER. During the period of tactical planning by the field commanders in October and November, Brauchitsch representing the army, and WARLIMONT and others of the OKW, were working on administrative plans for the military occupation of the Low Countries.

21. On 23 November 1939, Hitler again discussed the intended operation with the commanding generals and their chiefs of staff. Among those present at this meeting were LEEB, KUECHLER, SALMUTH, HOLLIDT, SCHNIEWIND, Rundstedt, Brauchitsch, and Manstein. At this time Hitler stated:

We have an Achilles heel: The Ruhr. The progress of the war depends on the possession of the Ruhr. If England and France push through Belgium and Holland into the Ruhr, we shall be in the greatest danger. * * * Certainly England and France will assume the offensive against Germany when they are armed. England and France have means of pressure to bring Belgium and Holland to request English and French help. In Belgium and Holland the sympathies are all for France and England. * * * If the French Army marches into Belgium in order to attack us, it will be too late for us. We must anticipate them. * * * We shall sow the English coast with mines which cannot be cleared. This mine warfare with the Luftwaffe demands a different starting point. England cannot live without its imports. We can feed ourselves. The permanent sowing of mines on the English coasts will bring England to her knees. However, this can only occur if we have occupied Belgium and Holland. * * * My decision is unchangeable; I shall attack France and England at the most favorable and quickest moment. Breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won. We shall not bring about the breach of neutrality as idiotically as it was in 1914. If we do not break the neutrality, then England and France will. Without attack, the war is not to be ended victoriously.

22. On 12 December 1939, SCHNIEWIND ordered Naval Group West to support the army operations in the coming offensive against the Low Countries. A copy of this order went to WARLIMONT. On 30 December 1939, a further tactical order for the

navy in the coming operations was received from OKW and initialed by SCHNIEWIND. In a report on 12 January 1940, Rundstedt stressed his conception of a total decision on land with one overwhelming offensive. He continued: "Partial goals, as they were given at first in the directives of the OKH, like the defeat of strong enemy forces in Belgium or Northern France and the conquest of the Belgian Coast, do not justify the bad political repercussions which the breach of the neutrality of three states will certainly entail." In reply Brauchitsch pointed out that it was a mistake to assume that only a partial goal would be reached.

23. On 27 March 1940, a general conference with Hitler was held, which most of the commanding officers attended. LEEB made a report at this conference concerning his share in the coming campaign. Hitler expressed his satisfaction with the way the armed forces had been prepared during the preceding half year. On 27 March 1940, the OKW issued an order signed by WARLIMONT and distributed to the army and air force, as well as to other departments of the OKW, providing for the closing of the border on the night before the invasion of the Low Countries. On 9 May 1940, a Hitler decree previously prepared early in November 1939, was issued formally authorizing Brauchitsch to set up a military administration in Luxembourg, Belgium, and Holland.

24. On 10 May 1940, German forces invaded the Netherlands, Belgium, and Luxembourg. The immediate order for the invasion was given by Brauchitsch as Commander in Chief of the Army. A principal part in the invasion was taken by Army Group A, commanded by Rundstedt. One of the corps in the 12th Army of his group was the XLI Corps commanded by REINHARDT. Other elements that took part in the attack included Army Group B, with SALMUTH as its Chief of Staff; XV motorized corps of the 4th Army, commanded by HOTH; the XXXVIII Corps of the 4th Army, commanded by Manstein; and the 18th Army under the command of KUECHLER. Army Group C, which subsequently attacked directly into France, was under the command of LEEB, who had been active in the planning of the entire campaign. Air-fleet (Luftflotte) 3, commanded by SPERRLE, supported Army Group A in its attack. On 10 June 1940, Italy joined Germany in the attack upon France and Great Britain.

E. Yugoslavia and Greece

25. After Italy's declaration of war upon France and Great Britain, Mussolini tried to enlarge Italy's African holdings by attacks upon the British in Africa. He had long had the ambition to expand Italy's dominion in the Mediterranean area; on 28 October 1940, Italy served an ultimatum on Greece, demanding the sur-

render of certain Greek bases. Upon the expiration of the ultimatum, Italian troops invaded Greece, Italian attacks were thrust back and it became necessary for Germany to plan to assist Italy.

26. On 12 November 1940, Hitler issued Directive No. 18 outlining proposed military operations, in which he stated:

2. Spain and Portugal.—Political steps to bring about an early Spanish entry into the war have been taken. The aim of German intervention in the Iberian Peninsula (code name Felix) will be to drive the English out of the western Mediterranean.

For this purpose:

a. Gibraltar will be taken and the Straits closed.

b. The British will be prevented from gaining a foothold at another point of the Iberian Peninsula, or the Atlantic Islands.

The preparation and execution of this operation is intended as follows:

Section I

a. Reconnaissance troops (officers in civilian clothes) make the necessary preparations for the action against Gibraltar and for taking over airdromes. As regards disguise and cooperation with the Spaniards they will comply with the security measures of the chief of foreign intelligence.

b. Special units of the foreign intelligence bureau are to take over the protection of the Gibraltar area, in secret cooperation with the Spaniards, against English attempts to widen the terrain in front and against premature discovery and frustration of our preparations.

* * * * *

4. Balkans.—The commanders in chief of the army will make preparations for occupying the Greek mainland north of the Aegean Sea in case of need, entering through Bulgaria, and thus make possible the use of German Air Force units against targets in the eastern Mediterranean, in particular against those English air bases which are threatening the Rumanian oil area.

In order to be able to face all eventualities and to keep Turkey in check, the use of an army group of an approximate strength of ten divisions is to be the basis for the planning and the calculations of deployment. It will not be possible to count on the railway leading through Yugoslavia for moving these forces into position.

This directive was prepared in WARLIMONT'S office and was sent to various offices of the army and navy.

27. On 13 December 1940, Hitler issued Directive No. 20 concerning operation "Marita", the code name adopted for the planned invasion of Greece, in which he said it was necessary to foil the British endeavor "to create air bases under the protection of a Balkan front". He continued, "My plan therefore is (a) to form a slowly increasing task force in southern Rumania within the next months; (b) after the setting in of favorable weather, probably in March, to send this task force for the occupation of the Aegean North Coast by way of Bulgaria, and if necessary to occupy the entire Greek mainland (Operation Marita)." In the same directive Hitler stated that the "Yugoslavs' position cannot yet be clearly determined." This directive was prepared by WARLIMONT's office and was received by SCHNIEWIND, among others. On 20 January 1941, Hitler stated in a conference with representatives of the Italian Government that one of the purposes of the massing of troops in Rumania was for "an operation against Greece." A résumé of this conference was sent to the offices of Brauchitsch, SCHNIEWIND, and WARLIMONT.

28. On 26 March 1941, in reaction to the Yugoslav Government's adherence to the Tripartite Pact on the previous day, the Yugoslav regency was removed by a *coup d'état* and Peter was installed as King of Yugoslavia. Hitler immediately conferred with the leaders of the army, including HOLLIDT and Brauchitsch. Hitler stated that Yugoslavia was an uncertain factor in regard to the coming "Marita" action and even more in regard to the "Barbarossa" undertaking (U.S.S.R.) later on. In notes on the conference sent to WARLIMONT, among others, it was stated:

The Fuehrer is determined, without waiting for possible loyalty declarations of the new government, to make all preparations in order to destroy Yugoslavia militarily and as a national unit. No diplomatic inquiries will be made nor ultimatums presented. Assurances of the Yugoslav Government, which cannot be trusted anyhow, in the future will not be taken note of. The attack will start as soon as the means and troops suitable for it are ready. * * * Politically, it is especially important that the blow against Yugoslavia is carried out with unmerciful harshness and that the military destruction is done in a lightning-like undertaking.

29. On 28 March 1941, Raeder reported to Hitler regarding military operations against Yugoslavia. Later, in a diary entry known to SCHNIEWIND, he commented that Hitler's directive "* * * with ruthless logic * * * draws the conclusions which arise from the development of the position in Yugoslavia. After the recent occurrences Yugoslavia must be treated as an enemy, however future developments may be, and must, therefore, be de-

stroyed. Military operations should begin simultaneously with operation 'Marita,' if possible * * *." On 30 March 1941, Brauchitsch issued deployment instructions for "Action 25" against Yugoslavia and for the "Marita" action, saying:

The political situation in the Balkans having changed by reason of the Yugoslav military revolt, Yugoslavia has to be considered as an enemy even should it make declarations of loyalty at first. *The Fuehrer and Supreme Commander has decided therefore to destroy Yugoslavia as quickly as possible.*

* * * the air force shall attack continuously by day and night the Yugoslav ground organization and Belgrade.

Simultaneously—by no means earlier—the attack of the 12th Army (under the command of List) * * * begins against Yugoslavia and Greece.

On 6 April 1941, while the German Air Force bombed Belgrade, the German Army invaded Yugoslavia and Greece.

30. Only the defendants REINHARDT, HOLLIDT, SCHNIEWIND, REINECKE, WARLIMONT and LEHMANN are charged with responsibility under paragraphs 25 to 29 inclusive of this count.

F. The Union of Soviet Socialist Republics

31. On 29 July 1940, Jodl, in a conference at Bad Reichenhall, informed WARLIMONT and other military leaders that Hitler intended to attack the U.S.S.R., in the spring of 1941. On 6 September 1940, Jodl issued an OKW directive to WARLIMONT and Brauchitsch, among others, in which it was stated that the Eastern Territory would be manned more strongly in the weeks to come, but regroupings were not to create the impression in Russia that an offensive in the East was being prepared. On the same day, in compliance with this directive, Brauchitsch ordered the transfer of a large number of army units to the East, in preparation for operations against the U.S.S.R. Brauchitsch's order, together with an operational map for deployment, was sent to LEEB, KUECHLER, and Rundstedt, among others.

32. On 20 September 1940, a memorandum was issued to Brauchitsch from Hitler's headquarters, signed by Keitel and prepared by WARLIMONT's office, stating that Hitler had decided to send a military mission to Rumania, one of whose tasks was to prepare for deployment of German and Rumanian forces from Rumanian bases "in case a war with Soviet Russia is forced upon us."

33. On 12 November 1940, Hitler issued Directive No. 18, prepared by WARLIMONT's office, outlining the preparatory meas-

ures for the prosecution of the war. It was stated that political discussions had been initiated with the aim of clarifying Russia's attitude for the time being but:

Irrespective of the results of these discussions, all preparations for the East which have already been verbally ordered will be continued.

Instructions on this will follow, as soon as the general outline of the army's operational plans have been submitted to, and approved by, me (Hitler).

34. On 18 December 1940, Hitler issued Directive No. 21, also prepared by WARLIMONT, on the invasion of Russia. This directive named the proposed operation against Russia, "Fall Barbarossa" (Case Barbarossa), and stated: "The German Armed Forces must be prepared to *crush Soviet Russia in a quick campaign* before the end of the war against England." It stated that the army and the air force would be employed against Russia, and that the navy would continue the concentration of its forces against England. It continued:

The mass of the Russian Army in western Russia is to be destroyed in daring operation by driving forward deep wedges with tanks and the retreat of intact battle-ready troops into the wide spaces of Russia is to be prevented.

In quick pursuit, a (given) line is to be reached from where the Russian Air Force will no longer be able to attack German Reich territory. The first goal of operations is the protection against Asiatic Russia from the general line Volga-Arkhangelsk. In case of necessity, the last industrial area in the Urals left to Russia could be eliminated by the Luftwaffe.

35. On 20 January 1941, SCHNIEWIND, for the navy, issued a letter to the OKW, OKH, and OKL giving the intentions of the navy in respect to the planned campaign against the U.S.S.R., pursuant to Directive No. 21. On 31 January 1941, Brauchitsch issued an order concerning deployment for the "Barbarossa" operation, naming Rundstedt, commander of Army Group South; Bock, commander of Army Group Center; and LEEB, commander of Army Group North. On 2 February 1941, Hitler held a conference on "Fall Barbarossa", attended by Brauchitsch, in which the details of the planned attack on the U.S.S.R., were discussed. Notes of the conference were sent to WARLIMONT. On 3 February 1941, LEEB as commander of Army Group C conferred with HOTH, commander of Panzer Group 3, on plans for operations against the U.S.S.R., and on 8 February 1941, LEEB discussed these plans with representatives of the 18th Army, commanded by KUECHLER.

36. Preparations for the "Barbarossa" operation were carried on continuously by all the defendants herein, as well as by other military leaders, in the spring of 1941. For example, all units subordinate to LEEB and Rundstedt engaged in war games prepared elaborate tactical maps; Rundstedt issued orders for the concealment of troop movements; LEEB ordered KUECHLER to prepare for an attack on the Baltic Islands; as early as March, REINHARDT, as commander of the XXXXI Corps, was preparing a plan of attack for his corps; and on 25 April 1941 WARLIMONT was named as liaison officer from the OKW to Rosenberg in his capacity as Commissioner for the Central Control of Questions Connected with the East-European Region.

37. On 12 May 1941, a draft of an order for the murder of "political commissars" in the coming attack was issued from Hitler's headquarters, initialed by WARLIMONT, and reviewed by Lehmann, and on 19 May 1941, in a conference held in Brauchitsch's headquarters the German High Command decided that political commissars in the Soviet Army when captured would be handed over to police and SS officials for execution. On 13 May 1941, Keitel issued an order prepared by WARLIMONT and LEHMANN on military jurisdiction in the "Barbarossa" area, in which it was directed that German military courts were not to try enemy civilians, that any officer was authorized to decide whether suspected persons were to be shot, and that crimes committed by members of the Wehrmacht against the civilian population need not be punished.

38. On 15 May 1941, Brauchitsch again conferred with LEEB, on the plans for operations against the U.S.S.R. Following a conference on 25 May 1941, a Finno-German military agreement was executed on 10 June 1941 relative to the planned attack on the U.S.S.R. WARLIMONT and Brauchitsch participated in the preparation of this agreement. On 1 June 1941, Keitel issued a timetable prepared by WARLIMONT's office for "Fall Barbarossa", indicating the disposition of army, navy and air force units for the operation.

39. On 6 June 1941, WARLIMONT distributed a letter enclosing a draft of an order prepared with LEHMANN's assistance for the murder of political commissars in the planned operation against the U.S.S.R., and requesting that the order receive restricted distribution to high-ranking commanders and that oral orders be given to others. On 8 June 1941, Brauchitsch issued an order directing the liquidation of all political commissars. This order was distributed to LEEB, KUECHLER, and HOTH and thereafter to the other defendants herein, with the exception of SPERLE, BLASKOWITZ, and SCHNIEWIND.

40. On 14 June 1941, Hitler held a conference on "Fall Barbarossa" in the Chancellery at Berlin to discuss with the military leaders preparations for the attack on the U.S.S.R. Among the participants in this conference were LEEB, KUECHLER, HOTH, WARLIMONT, Rundstedt, Brauchitsch, and Bock. On 22 June 1941, the German Armed Forces invaded the U.S.S.R. The military units which took part in the attack included Army Group North commanded by LEEB, Army Group South commanded by Rundstedt and with ROQUES as Rear Area Commander, the 18th Army commanded by KUECHLER, the 3d Panzer Group commanded by HOTH, the 11th Army with WOEHLER as Chief of Staff, the XLI Corps commanded by REINHARDT, the XXX Corps commanded by SALMUTH, and the 50th Infantry Division commanded by HOLLIDT. Rumania, Hungary, Finland, and Italy also declared war against and attacked the U.S.S.R., and Spain sent troops (including the "Blue Division") which joined in the attack.

41. All the defendants except SPERRLE and BLASKOWITZ are charged with responsibility under paragraphs 31 to 40 inclusive of this count; the defendants ROQUES and WOEHLER are charged with responsibility under this count only under such paragraphs.

G. The United States of America

42. On 27 September 1940, Germany, on the advice of its military leaders, entered into a military and economic alliance with Italy and Japan. Partially as a result of this alliance, and after the attack by Japan on the United States, Germany declared war on the United States on 11 December 1941.

43. In addition to the acts and conduct of the defendants set forth above, the participation of the defendants in the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries included the acts and conduct set forth in counts two and three of this indictment, which acts and conduct were committed as an integral part of the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries. The allegations made in said counts two and three are hereby incorporated in this count.

44. The acts and conduct of the defendants set forth in this count were committed unlawfully, wilfully, and knowingly, and constitute violations of international laws, treaties, agreements and assurances, and of Article II of Control Council Law Number 10.

COUNT TWO—WAR CRIMES AND CRIMES AGAINST HUMANITY: CRIMES AGAINST ENEMY BELLIGERENTS AND PRISONERS OF WAR

45. Between September 1939 and May 1945, all of the defendants herein, with divers other persons including the co-participants listed in the Appendix, committed war crimes and crimes against humanity, as defined in Article II of Control Council Law Number 10, in that they participated in the commission of atrocities and offenses against prisoners of war and members of armed forces of nations then at war with the Third Reich or under the belligerent control of or military occupation by Germany, including but not limited to murder, ill-treatment, denial of status and rights, refusal of quarter, employment under inhumane conditions and at prohibited labor of prisoners of war and members of military forces, and other inhumane acts and violations of the laws and customs of war. The defendants committed war crimes and crimes against humanity in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with the commission of war crimes and crimes against humanity.

46. Unlawful orders initiated, drafted, distributed, and executed by the defendants directed that certain enemy troops be refused quarter and be denied the status and rights of prisoners of war, and that certain captured members of the military forces of nations at war with Germany be summarily executed. Such orders further directed that certain members of enemy armed forces be designated and treated by troops of the German Armed Forces, subordinate to the defendants, either as "partisans, Communists, bandits, terrorists", or by other terms denying them the status and rights of prisoners of war. Prisoners of war were compelled to work in war operations and in work having a direct relation to war operations, including the manufacture, transport, and loading of arms and munitions, and the building of fortifications. This work was ordered within the combat zone as well as in rear areas. Pursuant to a "total war" theory, and as part of a program to exploit all non-German peoples, prisoners of war were denied rights to which they were entitled under conventions and the laws and customs of war. Soldiers were branded, denied adequate food, shelter, clothing, and care, subjected to all types of cruelties and unlawful reprisals, tortured, and murdered. Special screening and extermination units, such as Einsatz groups of the Security Police and Sicherheitsdienst (commonly known as the "SD"), operating with the support and under the jurisdiction of

the Wehrmacht, selected and killed prisoners of war for religious, political, and racial reasons. Many recaptured prisoners were ordered executed. The crimes described in paragraphs 45 and 46 included, but were not limited to, those set forth hereafter in this count.

A. The "Commissar" Order

47. In a conference on 28 March 1941, some months prior to the invasion of the U.S.S.R., Hitler discussed with his commanding generals a proposed plan for the summary execution of all Soviet "political commissars", who were members of the Soviet Armed Forces fighting in uniform as combat troops. On 6 June 1941, WARLIMONT, with the assistance of LEHMANN, prepared and distributed an order entitled "Directive for the Treatment of Political Commissars" to the army, navy, and air force. On 8 June 1941, Brauchitsch transmitted that order with certain minor amendments to LEEB, KUECHLER, HOTH, and other military leaders, and each of them made further distribution. This order directed summary execution of political commissars even if they were serving in and wearing the uniform of Soviet military forces. It further provided that commissars were not to be recognized as soldiers and were to be granted none of the protections of international law. In implementation of this criminal order, REIN-ECKE issued a series of decrees for the screening, selection, and execution of Soviet prisoners of war as political commissars and for the transfer of such commissars to concentration camps for execution. The enforcement of these orders resulted in the murder of many thousands of prisoners of war. All of the defendants, with the exception of SPERRLE, BLASKOWITZ, and SCHNIE-WIND, are charged with responsibility for the initiation, issuance, distribution, and execution of such orders, and for the commission of crimes charged in this paragraph. The following particulars are set forth as examples of such crimes selected from many instances for which proof will be adduced:

a. From 21 June 1941 to about 8 July 1941, troops of the XLI Corps, commanded by REINHARDT, in Panzer Group 4 under Army Group North, commanded by LEEB, killed 97 "political commissars."

b. From 21 June 1941 to about 19 July 1941, troops of Panzer Group 4, under Army Group North, commanded by LEEB, killed 172 "political commissars."

c. From 21 June 1941 to about 1 August 1941, troops of Panzer Group 3 commanded by HOTH, killed 170 "political commissars."

d. On or about 1 October 1941, troops of the Rear Area of the

11th Army, of which WOEHLER was Chief of Staff, killed 1 "political commissar."

e. On or about 4 October 1941, troops of the 454th Security Division, under ROQUES as Commanding General of the Rear Area of Army Group South, killed 1 "political commissar."

f. From about 18 October 1941 to 26 October 1941, in the operational area of the XXVIII Corps in the U.S.S.R., troops of the 18th Army, commanded by KUECHLER and under Army Group North, commanded by LEEB, killed 17 "political commissars."

g. On 29 May 1942, in the operational area of the XLIV Corps, troops of the 17th Army, commanded by SALMUTH, killed 2 "political commissars."

B. The "Commando" Order

48. On 18 October 1942, Hitler issued an order, hereinafter referred to as the "Commando" order, prepared and drafted by WARLIMONT and LEHMANN. This order directed that "all enemies on so-called commando missions in Europe or Africa challenged by German troops, even if they are to all appearances soldiers in uniform or demolition troops, either armed or unarmed, in battle or in flight, are to be slaughtered to the last man * * * even if these individuals * * * should be prepared to give themselves up, no pardon is to be granted them on principle." On 30 July 1944, this "Commando" order was extended to members of military missions in an order suggested and drafted by WARLIMONT.

49. Enforcement of these orders resulted in the murder of many Allied troops. All of the defendants herein, with the exception of LEEB, received such orders and are charged with responsibility for the initiation, issuance, distribution, and execution of such orders and for the commission of crimes charged in this paragraph. The following particulars are set forth as examples of such crimes selected from many instances for which proof will be adduced:

a. On or about 7 July 1944, near Poitiers in France, troops of the LXXX Corps of the 18th [1st] Army, under Army Group G, commanded by BLASKOWITZ, executed 1 American prisoner of war and 30 British prisoners of war.

b. On or about 22 May 1944, on the island of Alimnia near Greece an English soldier and a Greek sailor were executed on instructions of WARLIMONT.

c. On or about 16 April 1944, a British prisoner of war was turned over by Stalag 7a, then under the control and jurisdiction of REINECKE, to the SD for execution.

d. On or about 10 December 1942, in or near Bordeaux, France, members of the German Naval Forces executed 2 uniformed British soldiers.

e. On or about 20 November 1942, near Stavanger, Norway, members of the German Armed Forces executed 17 uniformed British soldiers.

f. On or about 22 March 1944, near La Spezia, Italy, members of the German Armed Forces executed 15 uniformed U.S. soldiers.

g. In January 1945, in the Mauthausen concentration camp, Austria, from 12 to 15 American prisoners of war, comprising an American military mission, were executed.

C. Prohibited Labor of Prisoners of War

50. Prisoners of war held by the Germans were regarded as an unrestricted source of labor and millions of prisoners of war were used in labor prohibited by the Geneva Convention. All of the defendants herein, with the exception of SCHNIEWIND, initiated, issued, distributed, and executed orders directing the use of, and did use, prisoners of war in war operations and work having a direct relation to war operations, including the manufacture and transportation of arms and munitions, work on fortifications, the removal of mines, labor within zones of operations, and other dangerous work, said work being prohibited labor specifically forbidden by the Geneva Convention.

51. On 24 July 1941, Brauchitsch, as Commander in Chief of the Army, issued the following directive:

1. Screening, separation: The prisoners of war are to be separated if possible into the following groups. * * *

2. Asiatics (according to their race), Jews, German-speaking Russians. * * *

3. A transfer to the Reich of prisoners of war under I-2 will not take place. They have to be used in the first place for employment in the zone of operations, because employment of these prisoners of war in the Reich is out of the question.

The claims of the air force and navy for prisoner of war labor have to be filled.

52. On 3 August 1941, and on other occasions, officers of divisions in the 18th Army, then commanded by KUECHLER in Army Group North, commanded by LEEB, issued orders directing the removal of mines by prisoners of war. On 2 March 1942, in the LIX Corps of the 3d Panzer Army, commanded by REINHARDT, it was ordered that prisoners of war and local inhabitants, in case of suspicion of mined streets or areas, were to advance and remove the mines. On 16 March 1943, REINECKE, on behalf of

OKW, ordered that prisoners of war should be used as labor in war-essential industries, and prisoners of war were in fact so used.

53. On 2 February 1945, BLASKOWITZ, as Commanding General of Army Group G [H], ordered the use of prisoners of war for the construction of fortifications. On 31 March 1942, WOEHLER, as Chief of Staff of the 11th Army, dispatched from the 11th Army area in the U.S.S.R., 5,529 Soviet prisoners of war for labor in the armament factories in Germany. On 10 August 1942, in prison camp "Taps" in the U.S.S.R., within the rear area of the Army Group North, commanded by KUECHLER, 887 prisoners of war were employed in the construction of fortifications.

D. Murder and Ill-treatment of Prisoners of War

54. Millions of prisoners of war other than "commandos" and "commissars" were mistreated and killed. Out of 3,600,000 Soviet prisoners of war taken prior to August 1942, many hundreds of thousands died or were killed and the survivors were already in wretched physical condition. Such crimes were instigated and encouraged in orders and directives issued by various German military leaders. For example, on 8 September 1941, REINECKE ordered ruthless and criminal action against Soviet soldiers as follows:

The Bolshevik soldier has therefore lost all claim to treatment as an honorable opponent, in accordance with the Geneva Convention. * * * The order for ruthless and energetic action must be given at the slightest indication of insubordination, especially in the case of Bolshevik fanatics. Insubordination, active or passive resistance, must be broken immediately by force of arms (bayonets, butts, and firearms). * * * Anyone carrying out the order who does not use his weapons, or does so with insufficient energy, is punishable. * * * Prisoners of war attempting to escape are to be fired on without previous challenge. No warning shot must ever be fired. * * * The use of arms against prisoners of war is as a rule legal.

55. On or about 24 July 1941, and thereafter, all of the defendants herein, with the exception of SPERRLE, BLASKOWITZ, and SCHNIEWIND, initiated, issued, distributed, and executed orders directing the summary execution of prisoners of war similar to the following Brauchitsch directive:

I. Screening, separation: The prisoners of war are to be separated if possible into the following groups.

* * * * *

3. Politically obnoxious and suspicious elements, commissars and instigators.

* * * * *

3. The transfer of prisoners of war under I-3 into the Reich is prohibited. They have to be treated according to special directives by decision of the camp commandant.

56. On 9 August 1941, ROQUES, Commanding General of Army Group South, Rear Area, issued to units of his command the following order:

The numerous reports about dropped parachutists show that the Russians are using this method of warfare to an ever-increasing extent in the rear area. * * *

Therefore, they also, as a matter of principle, are to be treated as guerrillas.

57. All of the defendants, except SCHNIEWIND, are charged with responsibility for the initiation, issuance, distribution, and execution of orders such as those set forth in paragraphs 54, 55, and 56, and for the commission of crimes charged in paragraphs 54 to 57, inclusive. The following particulars are set forth as examples of such crimes selected from many instances for which proof will be adduced:

a. On or about 28 July 1941, in the sector of Zviahel in the U.S.S.R., troops commanded by ROQUES, within the rear area of Army Group South, killed 73 surrendered Soviet prisoners of war as "guerrillas".

b. On or about 25 August 1941, in the U.S.S.R., troops of the 18th Army, commanded by KUECHLER, under Army Group North, commanded by LEEB, killed 35 wounded prisoners of war.

c. On or about 9 September 1941, in Djedkovov in the U.S.S.R., troops of Panzer Group 3, then under the command of HOTH, killed 4 Soviet prisoners of war.

d. On or about 13 September 1941, troops of the 213th Security Division, ROQUES, as Commanding General of the Rear Area Army Group South, executed 13 escaped and recaptured Soviet prisoners of war.

e. On or about 15 October 1941, in the area of the 24th Infantry Division, more than 1,000 Soviet prisoners of war, under ROQUES, were shot to death because they were unable to march, or died from exhaustion.

f. On 16 October 1941, in Nikolaev, troops of the 11th Army, of which WOEHLER was chief of staff, delivered 75 Jewish prisoners of war to the SD for execution.

g. On or about 22 October 1941, 20 Soviet prisoners of war were executed at concentration camp "Gros-Rosen"; on or about 15 October 1941, 21 Soviet prisoners of war were executed at Dachau; on or about 22 October 1941, 40 Soviet prisoners of war were executed at Dachau; on or about 8 November 1941, 99 Soviet prisoners of war were executed at Dachau; on or about 12 November 1941, 135 Soviet prisoners of war were executed at Dachau; between 1 September 1941 and 23 January 1942, 1,082 Soviet prisoners of war were selected by the Gestapo at Regensburg for execution; all of said prisoners of war being under the control of REINECKE and executed pursuant to agreements made by REINECKE with other authorities.

h. In the period immediately preceding 9 November 1941, in the operational area of the 18th Army prisoners of war under the control of KUECHLER, Commander in Chief of the 18th Army, under Army Group North, commanded by LEEB, died at the rate of 100 daily from malnutrition.

i. In the month of September 1942, in the rear area of the 2d Army commanded by SALMUTH, 384 prisoners of war died or were shot, and 42 others were turned over to the SD for execution.

j. In the period from 1 January 1942 to 6 March 1942, in the rear area of the 11th Army, 2,366 prisoners of war were killed or died of exhaustion, neglect, and disease, and 317 prisoners of war were turned over to the SD for execution.

k. From 14 January 1942 to 29 September 1942, in the rear area of Army Group North, commanded by KUECHLER, 200 captured Soviet prisoners of war were executed.

l. In July 1943, in the rear area of the 4th Panzer Army commanded by HOTH, 24 prisoners of war were turned over to the SD for execution, and in August 1943, 39 prisoners of war were turned over to the SD for execution.

m. In January 1945, a French prisoner of war, General Mesny, then under the control of the German Prisoner of War Administration, was murdered, and thereafter false reports of the cause and nature of his death were issued by REINECKE with knowledge that Mesny had been murdered.

58. The acts and conduct of the defendants set forth in this count were committed unlawfully, wilfully, and knowingly, and constitute violations of the laws and customs of war, of international treaties and conventions, including the Hague Regulations, 1907, and the Prisoner-of-War Convention (Geneva, 1929), of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law Number 10.

COUNT THREE—WAR CRIMES AND CRIMES AGAINST HUMANITY: CRIMES AGAINST CIVILIANS

59. Between September 1939 and May 1945, all of the defendants herein, with divers other persons including the co-participants listed in the Appendix, committed war crimes and crimes against humanity, as defined in Article II of Control Council Law Number 10, in that they participated in atrocities and offenses, including murder, extermination, ill-treatment, torture, conscription to forced labor, deportation to slave labor, or for other purposes, imprisonment without cause, killing of hostages, persecutions on political, racial, and religious grounds, plunder of public and private property, wanton destruction of cities, towns, and villages, devastation not justified by military necessity, and other inhumane and criminal acts against German nationals and members of the civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by Germany. The defendants committed war crimes and crimes against humanity, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups which were connected with the commission of war crimes and crimes against humanity.

60. Numerous murders and other crimes against civilians were carried out by troops and other agencies of the German Reich under the command or control of the German Armed Forces. Special extermination groups within the framework of the army, such as Einsatz groups of the Security Police and SD and other police units, operating under army jurisdiction, were directed to treat Soviet nationals, Jews, democrats, Nationalists, gypsies, and others as racial inferiors, subhumans, and beasts. Pursuant to this program of genocide and extermination, millions of such persons were killed. As the result of the suspension of courts martial in territories invaded by the German Army, hundreds of civilians were wantonly executed without trial. Suspicion of offenses against the German forces was considered sufficient reason for execution or secret abduction. Civilian functionaries and political leaders were executed merely because of their position. Murder and violence by German troops were encouraged by German Army order and it was specifically directed that the perpetrators of such crimes need not be punished. The German Army officially disseminated propaganda, literature, and public expressions advocating and inciting murder, enslavement, genocide, and extermination.

61. Collective penalties, seizure and execution of hostages and reprisal measures were instituted as part of a deliberate scheme of terror and intimidation wholly unwarranted and unjustified by military necessity, and in flagrant violation of the laws and customs of war, to compel the victims to furnish military information, and to exterminate certain races and classes. These measures consisted not only of offenses against the persons of the victims but also included a program of wholesale destruction and devastation of property. Offers of surrender were refused and entire cities and villages were razed.

62. Masses of the civilian population were forcibly conscripted for labor in the Reich and in the occupied territories and were deported and forced to labor under inhumane conditions. Civilians were forced to labor on fortifications, entrenchments, clearing mines, and in other dangerous operations, even while under fire.

63. Invaded territories were exploited for the benefit of the German economy. Cattle, food, personal property, and other material resources were seized. All forms of wealth, both by subterfuge and by outright confiscation, were plundered by the military and by attached agencies within the organization and jurisdiction of the armed forces. The crimes described in paragraphs 59 to 63 inclusive, included but were not limited to, those set forth hereinafter in this count.

A. Deportation and Enslavement of Civilians

64. The acts, conduct, plans, and enterprises charged in this count included those carried out as part of the slave labor program of the Third Reich, in the course of which millions of persons including women and children were subjected to forced labor under cruel and inhumane conditions which resulted in widespread suffering and many deaths. At least 5,000,000 workers were deported to Germany. The conscription of labor was accomplished in many cases by drastic and violent methods. Workers destined for the Reich were sent under guard to Germany, often packed in trains without adequate heat, food, clothing, or sanitary facilities. Other inhabitants of occupied countries were conscripted and compelled to work in their own countries to assist the German war economy. The resources and needs of the occupied countries were completely disregarded in the execution of the said plans and enterprises, as were the family honor and rights of the civilian population involved. The treatment of slave laborers and prisoners of war was based on the principle that they should be fed, sheltered, and treated in such a way as to exploit them to the greatest possible extent at the lowest expenditure. The German Armed Forces played an important part in this enslavement operation and all of

the defendants, with the exception of SCHNIEWIND, are charged with participation therein.

65. On 17 September 1942, a Hitler decree transmitted by WARLIMONT for the OKW stated that it was necessary to employ all available labor forces for the erecting of coastal defenses in the west. This order was received, distributed, and executed by Rundstedt and other military leaders. Similarly, on 25 January 1943, Rundstedt, as Commander in Chief West, issued to subordinate commands his "Fundamental Order No. 2", directing that protection and cooperation be given to "recruiting commissions" acting for the purpose of conscripting and deporting slave labor in the occupied territory. On 1 August 1944, BLASKOWITZ as Commander in Chief of Army Group G directed the 1st Army, the 19th Army, and other of his units to give all help and assistance to labor drafting agencies, since additional foreign workers were needed to speed up production in Germany. Every able-bodied male suspected of belonging to, or being in sympathy with the resistance movement was to be deported to Germany for labor, and the responsibility for carrying out such measures was to rest with the armies in their respective sectors. Again on 10 August 1944, BLASKOWITZ distributed to units of his army group an order of the Commander in Chief West providing that all able-bodied men between 16 and 55 years of age in sectors where resistance forces were observed were to be arrested for deportation to Germany.

66. On 21 July 1941, on 16 August 1941, and on other dates, ROQUES, Commanding General, Rear Area, Army Group South, issued an order to subordinate units that forced labor gangs, especially including Jews, were to be set up immediately in all territory occupied by the Germans. On 4 May 1943, REINHARDT as Commander in Chief of the 3d Panzer Army in the U.S.S.R., ordered all subordinate units in his army to collect for labor allocation all men between the ages of 16 and 50 and all women between the ages of 16 and 40 capable of bearing arms and able to work.

67. The orders set forth above, and others similar thereto, resulted in numerous crimes. The following particulars are set forth as further examples of such crimes selected from many instances for which proof will be adduced:

a. On or about 3 July 1944, near Nice in France, troops of the LXII Reserve Corps in Army Group G, commanded by BLASKOWITZ, arrested 60 French nationals for deportation to Germany as laborers.

b. From October 1941 to January 1942, troops of the 285th Security Division, in the rear area of Army Group North, com-

manded by LEEB, in cooperation with "recruiting missions" for forced labor, deported to slave labor in Germany 1,496 men and 2,824 women.

c. From 11 December to 20 December 1941, in Dshankey [Dzhankoi], within the rear area of the 11th Army, of which WOEHLER was Chief of Staff, a camp for Jews of the Dshankey [Dzhankoi] district was established by the army and guarded by troops of the army for the purpose of providing all types of slave labor for the city district.

d. From 1 to 14 March 1942, within the operational area of the XLIV Corps in the U.S.S.R., troops of the 17th Army, then commanded by HOTH, forced the evacuation of all able-bodied men from 16 to 55 years of age, and conscripted 2,500 civilians to forced labor on field fortifications.

e. On 27 May 1943, in the operational area of the LIV Corps of the 3d Panzer Army, commanded by REINHARDT, 5,850 civilians were employed in labor for the corps, and of that number 2,033 were employed in work on fortifications and entrenchments.

f. In May 1943, in the rear area of the 6th Army, commanded by HOLLIDT, all girls of 18 and 19 years of age were drafted for forced labor on fortifications.

g. On or about 22 August 1943, the civilian population within the operational area of the 4th Panzer Army under the command of HOTH were forced to labor on entrenchment work and on or about 27 November 1943, the civilian population of certain designated villages were forced to furnish mine searching squads for the purpose of keeping the streets clear of mines.

B. Plunder of Public and Private Property, Wanton Destruction and Devastation not Justified by Military Necessity

68. All of the defendants are charged with unjustified devastation, wanton destruction, and plunder of public and private property in German occupied territory pursuant to a deliberate design and policy of the German Armed Forces. Thus, on 2 March 1942, troops of the LIX Corps of the 3d Panzer Army, commanded by REINHARDT, were issued the following order:

The Russian winter demands sufficient means of protection against the cold. Wherever the needed articles cannot be supplied through the supply channels, they are to be confiscated in the country *without* regard for the local population.

There must no longer be a soldier doing duty wearing low boots or without warm gloves. Wherever the organization of the Korueck proves insufficient, the troops are hereby ordered to

help themselves. The equipment of the soldiers will vary depending on their assignment.

On 23 December 1941, Manstein, as Commander in Chief of the 11th Army, issued an order to SALMUTH, commanding the XXX Corps, stating: "All land that we have been forced to abandon to the enemy must be made unusable. Each village must be destroyed and burned down, without regard for the population, in order to make it uninhabitable for the enemy. This must be prepared in advance. If the destruction is not possible, undestroyed towns and villages must be later destroyed by the air force." On 11 August 1941, ROQUES, as Commanding General of the Rear Area of Army Group South, ordered the seizure of all Jewish religious items made from precious metals. The following particulars are set forth as further examples of such crimes, selected from many instances for which proof will be adduced:

a. In December 1941 and January 1942, and thereafter, in the operational area of the 3d Panzer Army commanded by REINHARDT and pursuant to his direct order to create a devastated zone between the German and Russian lines, all villages and houses in line of retreat of the army were burned, all cattle driven away or slaughtered, all non-German vehicles were destroyed, all civilian furs and felt boots were seized, and the entire population of the devastated zone evacuated.

b. In the fall and winter of 1943, in the U.S.S.R., in territories being evacuated by Army Group North commanded by KUECHLER, in order to force an evacuation or elimination of the population, villages, houses, wells, mills, cellars, and furnaces were destroyed, and all movable items, including milling stones, tools, carts, etc., were carried back or destroyed by the troops, resulting in innumerable civilian deaths and the destruction of a tremendous amount of property.

c. In November 1943, troops of the 6th Army commanded by HOLLIDT seized all cattle, poultry, and agricultural machinery in the area, and removed 40,000 tons of corn, of which 4,000 tons were thrown into the Dnepr River.

d. In the period from 3 October 1944 to 17 January 1945, after the capitulation of the city of Warsaw, Poland, troops of units within Army Group Center, commanded by and subject to the control and jurisdiction of REINHARDT, razed the city of Warsaw.

C. Murder, Ill-treatment and Persecution of Civilian Populations

69. Pursuant to the extermination policies of the Third Reich, millions of civilians, including at least 6,000,000 Jews, were

slaughtered. Innumerable others were ill-treated, tortured, and persecuted for political, racial, and religious reasons. Many of these murders and inhumanities were committed by regular troops of the German Armed Forces or by other military or police units under their command and control. All of the defendants herein are charged with responsibility for the initiation, issuance, distribution, and execution of the orders hereinafter set out and orders similar thereto, and for the commission of the crimes charged in paragraphs 69 to 81, inclusive.

70. On 22 July 1940, KUECHLER, Commander in Chief of the 18th Army, issued an order in which he said, among other things: "I ask further that any soldier, especially officers, refrain from criticism of the racial struggle which is being carried out; for example, the treatment of the Polish minority, the Jews, and church matters. The racial struggle which has raged in the East for centuries requires for its final racial solution decisive measures carried out in an energetic manner."

71. On 14 May 1941, Keitel issued an order, drafted and prepared by WARLIMONT and LEHMANN, and directly distributed to SCHNIEWIND, Brauchitsch, and others of the German High Command, and thereafter received, distributed, and executed by all of the defendants herein. The order, entitled, "Order Concerning the Exercise of Martial Jurisdiction and Procedure in the Area Barbarossa and Special Military Measures," directed the troops to take ruthless action and that:

* * * military courts and courts martial will not be competent for *crimes committed by enemy* civilians. * * *

Guerrillas should be disposed of ruthlessly by the troops, whether fighting or in flight.

Likewise all other attacks by enemy civilians on the armed forces, its members and employees, are to be suppressed at once by the troops, using the most extreme methods. * * *

Where such measures have been neglected or were not at first possible, *persons suspected of criminal action will be brought at once before an officer*, who will decide whether they are to be shot. On the orders of an officer with the powers of at least a battalion commander, *collective despotic measures* will be taken without delay against *localities* * * * (from which attacks emanate). * * *

With regard to offenses committed against enemy civilians by members of the Wehrmacht and its employees, *prosecution is not obligatory*, even if the deed is at the same time a military crime or offense.

A court martial was to be ordered in such cases only " * * * if

maintenance of discipline or security of the forces call for such a measure."

72. In July 1941, Brauchitsch, in an order issued to the Commander of the Rear Area of Army Group North, responsible to LEEB, and to ROQUES the Commander of the Rear Area of Army Group South, responsible to Rundstedt, and thereafter received, issued, distributed, and executed by all of the defendants herein with the exception of SPERRLE, BLASKOWITZ, SCHNIEWIND, REINECKE, WARLIMONT, and LEHMANN, directed:

Attacks and acts of violence of all kinds against persons or things as well as all attempts to be fought down with arms ruthlessly until the annihilation of the opponents is accomplished.

Whenever passive resistance is encountered or if barricades, shootings, attacks, or other acts of sabotage occur where the perpetrators cannot be immediately determined and liquidated as provided in previous directives, immediate collective measures of force are to be carried out. Previous arrests of hostages as a guarantee against future violations are not necessary.

Russian soldiers who become separated from their unit and who roam around in the army rear areas and as such are a threat to the pacification of the country are to be called upon by proclamation and radio to report at once to German authorities. In case they do not report after the deadline, they are to be considered as guerrillas and treated as such.

All assistance by the population favoring partisans, stragglers, etc., is also to be considered as guerrilla warfare.

Suspicious elements who cannot be proved to have committed serious criminal acts but who seem dangerous because of their convictions and attitude are to be turned over to Einsatzgruppen of the SP or SD. The roaming around of persons without identification papers is to be stopped.

73. On 21 July 1941, on 11 August 1941, on 28 August 1941, and on other dates, ROQUES as Commanding General of the Rear Area of Army Group South issued orders to subordinate units directing that Jews were to be compelled to wear identifying insignia, that they were to be used for forced labor and were to receive food rations lower than those of the rest of the population, that they were to pay contributions, that ghettos were to be set up, and that Jewish religious services were to be prohibited.

74. On 16 September 1941, Keitel in an order which emanated from WARLIMONT'S department and was distributed to SCHNIEWIND, LEHMANN, and Brauchitsch directly, as well as to other military leaders of the Wehrmacht, and during the

period immediately following 16 September 1941, was received, issued, distributed, and executed by all the defendants herein, directed:

It should be inferred, in every case of resistance * * * that it is of Communist origin.

* * * the most drastic measures should be taken immediately on the first indication. * * * In this connection it should be remembered that a human life in unsettled countries frequently counts for nothing and a deterrent effect can be attained only by unusual severity * * * the death penalty for 50-100 Communists should generally be regarded in these cases as suitable atonement for one German soldier's life.

75. On 1 October 1941, SALMUTH, as Commanding General of the XXX Corps in the 11th Army ordered as follows:

The battle against bolshevism requires an energetic and ruthless attack, especially against Jews, the chief carriers of bolshevism.

76. On 7 December 1941, the Commanding General of the 257 Infantry Division, in the 17th Army commanded by HOTH, issued special orders on partisan warfare. These orders stated:

For the interrogation the following measures are to be used: It has never happened that a person who is being interrogated incriminates a single person without being harshly treated. Therefore, the following is to be observed: All persons being interrogated are to be held strictly to the truth. From the outset they expect to be treated according to the methods used by the NKVD and for this reason they expect beatings from the very beginning. The following measures are to be used: 25 lashes on the buttocks, in the case of women, with a rubber hose and, in the case of men, with an oxtail or a night stick.

* * * persons who have been severely interrogated as well as those who have been found guilty (they have to be confronted) must be liquidated at the end of the strictest and thorough interrogation. Generally the liquidations should take place in an inconspicuous way such as with a shot through the neck, and the bodies should be buried in such a way that it is no longer possible for the relatives to exhume them.

77. On 2 March 1942, and thereafter troops of the LIX Corps of the 3d Panzer Army, commanded by REINHARDT, committed murder and other crimes in execution of the following order issued by the corps:

A weak attitude towards the population * * * costs blood * * *. In every Russian he must see an active or passive supporter of the Red Army * * *. Arrest of hos-

tages may be necessary * * *. For incidents in a village its inhabitants are to be made responsible on principle. Reprisals must be directed against the life and property of the inhabitants. The question of guilt of an individual plays no role. Only the strongest measures can serve as a deterrent and protect the lives of German soldiers.

78. On 12 February 1944, Rundstedt, as Commander in Chief West, distributed to SALMUTH, commander of the 15th Army, and to other subordinates, instructions for the combatting of partisans. In the period immediately following 12 February 1944, SALMUTH received and distributed to troops under his command and jurisdiction these instructions, directing immediate counter-measures against all assaults on troop columns, including immediate return of fire, arrest of all civilians in the vicinity, and burning down of houses from which shots had been fired. It also stated:

If innocents are hurt, it is regrettable, but exclusively the fault of the terrorists.

* * * In view of the present situation there is no reason for punishment if the measures taken should prove too severe.

Again on 11 June 1944, Rundstedt as Commander in Chief West issued to BLASKOWITZ and other subordinate commanders an order directing:

* * * that in the large scale operations against the bands in southern France, action will be taken with ruthless force and without mercy.

* * * for return of order and security the most severe measures have to be taken to intimidate the inhabitants of these repeatedly infested territories. * * *

79. The execution of the above-described orders resulted in numerous murders and other crimes. The following particulars are set forth as further examples of such crimes, selected from many instances for which proof will be adduced:

a. From 22 June 1941 to 31 December 1941, within the Rear Area of Army Group North, troops of the 285th Security Division, under the control and jurisdiction of Army Group North, commanded by LEEB, summarily shot 841 persons, arbitrarily listed by the Division as 738 "partisans and civilians", 99 "persons", and 4 Red Army soldiers "shot while escaping".

b. On or about 28 July 1941, within the Rear Area of Army Group South, troops subject to the control and command of ROQUES, Commanding General of the Rear Area of Army Group South, executed 1,658 Jews.

c. From 1 August 1941 to 31 March 1942, troops within the rear area of Army Group North, commanded by LEEB until 18

January 1942 and thereafter by KUECHLER, captured 8,329 civilians and Soviet soldiers, arbitrarily defined as "partisans", and killed a majority of those captured, without trial.

d. On or about 31 August 1941, in Czerwone, troops commanded by ROQUES within the rear area of Army Group South, executed 63 Jews.

e. From 14 September 1941 to 28 September 1941, troops of Panzer Group 3, commanded by HOTH, killed 281 persons, 120 as "actual partisans," and 161 as "potential partisans".

f. In the period immediately prior to 28 October 1941, in the city of Melitipol within the rear area of the 11th Army, of which WOEHLER was chief of staff, 2,000 Jews were turned over by the army to the SD for execution.

g. From about 5 November to 15 November 1941, in Simferopol, within the rear area of the 11th Army, commanded by Manstein and with WOEHLER as chief of staff, members of the SD and army executed 11,000 Jews.

h. In November 1941 in Kalinin, by special order of the commander of Kalinin, under Panzer Group 3, commanded by REINHARDT, 10 insane persons were killed because "there was no possibility to provide for their quarters and food".

i. On or about 3 January 1942 in Makarjewo [Markarevskaya], by direction of KUECHLER, Commander in Chief of the 18th Army, under Army Group North, commanded by LEEB, members of the SD exterminated approximately 240 insane persons located in the insane asylum at Makarjewo.

j. On 14 January 1942, in the area of Eupatoria [Yevpatoriya], troops in the rear area of the 11th Army, killed 1,300 male persons in retaliation for alleged civilian support of a landing by Soviet troops.

k. From 28 February 1942 to 14 March 1942, within the operational area of the XLIV Corps, troops of the 17th Army, commanded by HOTH, delivered 53 persons for execution to members of SD units, and, in addition, executed 63 persons as "partisans", 112 "for moving around without identification and suspicion of illegal activities", 28 as "Communists", 27 as "spies", 4 "saboteurs", 6 "thieves", and 8 persons "moving in unauthorized front lines".

l. In March 1942, in the village of Kolushy, troops of the 3d Panzer Army commanded by REINHARDT destroyed the village and killed all of its inhabitants as an antipartisan reprisal action.

m. From 15 March 1942 to 29 April 1942, within the area of the XLIV Corps, troops of the 17th Army, commanded by HOTH,

summarily executed 140 persons as "partisans", 147 as "Communists", 151 as "spies", 23 for "sabotage and refusal to work", 44 for "anti-German propaganda", 14 for "theft", 13 as "Jews", and 15 for "moving about without identification papers".

n. From 30 April 1942 to 14 May 1942, within the operational area of the XLIV Corps, troops of the 17th Army, commanded by SALMUTH, summarily executed 17 persons as "partisans", 12 as "Communists", 10 as "spies", 5 as "saboteurs", 4 for "theft", 8 for "possession of arms", 4 for "anti-German propaganda", 1 for "refusal to work", and 2 as "Jews".

o. On 9 June 1942, troops of the 285th Security Division in the rear area, Army Group North, commanded by KUECHLER, shot 128 gypsies as "partisan helpers".

p. On 13 and 14 June 1942, near Wjasma [Vyazma], by direct order of REINHARDT as Commanding General of the 3d Panzer Army, the SD in Wjasma killed 113 physically and mentally abnormal persons "on suspicion that those cripples were used for espionage".

80. Millions of murders and other crimes in the eastern territories occupied by the Germans were committed by special task forces called "Einsatzgruppen" formed from personnel of the SS, the SD, the Gestapo and other police units. Pursuant to an agreement made in April 1941 between the SD and the Army, these forces accompanied the German Army into the Eastern Occupied Territories and operated within the jurisdictional spheres of the army for the purpose of exterminating elements of the population considered "inferior" and "politically or racially undesirable". On 28 April 1941 Brauchitsch issued a directive, previously reviewed by WARLIMONT, to Rundstedt and other military leaders. This directive authorized the operations of the Einsatz groups within the operational areas of the army pursuant to the right of the armies to exclude their employment and subject to the duty of the groups to report to the armies their missions and accomplishments. Initially four Einsatzgruppen were formed, each of which supervised the operations of a number of subordinate units. Einsatzgruppe A operated mainly in the Baltic region within the area of Army Group North commanded first by von LEEB and later by von KUECHLER; Einsatzgruppe B operated mainly within the area of Army Group Center commanded by von Bock; Einsatzgruppe C operated mainly within the area of Army Group South commanded by von Rundstedt; Einsatzgruppe D operated mainly within the area of the 11th Army commanded by von Manstein. The following particulars are set forth as examples of crimes selected from many instances for which proof will be adduced;

a. From 20 October 1941 to 30 October 1941, in Mariupol, members of the SD and soldiers, all under the command and jurisdiction of the 11th Army, of which WOEHLER was chief of staff, executed 8,000 Jews and turned over the vacated Jewish homes, clothes, and personal belongings to the 11th Army for military use.

b. Immediately prior to 1 October 1941, in the city of Kiev, units within the rear area of Army Group South, under the control and jurisdiction and subject to the command of ROQUES, executed 34,000 Jews.

c. From 22 June 1941 to 15 October 1941, in Lithuania, Latvia, Estonia, and White Ruthenia, Einsatzgruppe A within the area of Army Group North, commanded by LEEB, murdered 118,430 Jews and 3,398 Communists.

d. From 22 June 1941 to 3 November 1941 in the vicinity of Zhitomir, Novo Ukrainka and Kiev all within the area of Army Group South, Einsatzgruppe C murdered more than 75,000 Jews.

e. From 1 October 1941 to 15 October 1941, in the area east of [the] Dnepr, within the operational area of the 11th Army, with WOEHLER as Chief of Staff, Einsatzgruppe D murdered 4,891 Jews and 46 Communists.

81. On 7 December 1941 and thereafter orders and decrees, respectively known and referred to as "Nacht und Nebel" (Night and Fog) and "Sabotage" and "Terror" decrees, prepared and formulated by WARLIMONT and LEHMANN, were issued, directing the secret seizure, terrorization, and murder, in the occupied territories, of civilians suspected or accused of committing offenses or acts of resistance against the German occupying forces, and further directed that only those cases should be judicially tried in the occupied territories where both the trial and execution of the offenders could be accomplished within a week after arrest. In other cases, the orders further directed, the accused were to be secretly taken to Germany and their whereabouts and subsequent disposition kept in complete secrecy to serve the dual purpose of terrorizing the victims' families and friends and barring recourse to evidence, witnesses and counsel. Thereafter, in 1944, orders emanating from OKW and prepared and formulated by WARLIMONT and LEHMANN suspended all legal proceedings and intensified the severity of the terror decrees. As a result of this series of decrees, innumerable persons were imprisoned without trial, forced to slave labor, imprisoned in concentration camps and murdered.

82. The acts and conduct of the defendants set forth in this count were committed unlawfully, wilfully, and knowingly, and

constitute violations of the laws and customs of war, of international treaties and conventions, including the Hague Regulations, 1907, and the Prisoner-of-War Convention (Geneva, 1929), of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law Number 10.

COUNT FOUR—COMMON PLAN OR CONSPIRACY

83. All the defendants, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators, and accomplices in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, crimes against peace (including the acts constituting war crimes and crimes against humanity, which were committed as an integral part of such crimes against peace) as defined in Control Council Law Number 10, and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan or conspiracy.

84. The acts and conduct of the defendants set forth in counts one, two and three of this indictment formed a part of said common plan or conspiracy and all the allegations made in said counts are incorporated in this count.

WHEREFORE, this indictment is filed with the Secretary General of the Military Tribunals and the charges herein made against the above-named defendants are hereby presented to the Military Tribunals.

TELFORD TAYLOR
Brigadier General, USA
Chief of Counsel for War Crimes
Acting on behalf of the United
States of America

Nuernberg, 28 November 1947

APPENDIX TO INDICTMENT

Statement of Military Positions Held by the Defendants and Co-Participants

The following is a list of the military positions held by each of the defendants and co-participants named in the indictment. Each of the defendants, in holding and exercising these positions, committed crimes against peace, war crimes, and crimes against humanity as set forth in this indictment.

WILHELM VON LEEB—Generalfeldmarschall (General of the Army); (1918) Major at end of World War I; (May to October 1919) Department Chief in Bavarian Ministry for Military Affairs; (October 1919 to June 1921) Staff Officer in Ministry of National Defense (Reichswehrministerium); (June 1921 to September 1923) Chief of Staff Army District (Wehrkreis-kommando) II; (October 1923 to September 1924) Chief of Staff Army District (Wehrkreis-kommando) VII; (October 1924 to January 1926) Commander 2d Battalion, Artillery Regiment 7; (February 1926 to January 1928) Commander 7th Artillery Regiment; (March 1928 to January 1930) Commander of Artillery, District V; (February 1930 to September 1935) Commander Army District (Wehrkreis-kommando) VII; (October 1935 to February 1938) Commander in Chief Army Group Command (Heeresgruppenkommando) 2; (October 1938) Commander in Chief 12th Army; (September 1939 to May 1941) Commander in Chief Army Group C; (June 1941 to January 1942) Commander in Chief Army Group North.

Promotions: (1916) Major (Major); (1920) Oberstleutnant (Lieutenant Colonel); (1925) Oberst (Colonel); (February 1929) Generalmajor (Brigadier General); (December 1929) Generalleutnant (Major General); (1934) General der Artillerie (Lieutenant General, Artillery); (1939) Generaloberst (General); (1940) Generalfeldmarschall (General of the Army).

HUGO SPERRLE—Generalfeldmarschall (General of the Army); (1918) Captain at end of World War I; (1922 to 1923) Staff Officer in the 5th Division; (1925) Special duty with Reich Air Ministry; (1929) Battalion Commander in Infantry Regiment 14; (1931) Commander of Infantry Regiment 8; (1934) Special duty with Reich Air Ministry; (1935) Commanding General Air District (Luftkreis) 5; (November 1936 to October 1937) Commander of the "Condor Legion" in Spain; (February 1938 to January 1939) Commanding General of Air Group (Luftgruppe) 3; (February 1939 to August 1944) Commander in Chief Air Fleet (Luftflotte) 3.

Promotions: (1918) Hauptmann (Captain); (1926) Major (Major); (1933) Oberst (Colonel); (1935) Generalmajor (Brigadier General); (1937) Generalleutnant (Major General); (1937) General der Flieger (Lieutenant General, Air Force); (1940) Generalfeldmarschall (General of the Army).

GEORG KARL FRIEDRICH-WILHELM VON KUECHLER—Generalfeldmarschall (General of the Army); (1918) Captain at end of World War I; (October 1919 to September 1921) Instructor Infantry School at Munich; (October 1921 to March 1923) Staff Officer of Infantry Training Branch; (April 1923 to January 1927) Battery Chief in Artillery Regiment 5; (April 1927 to February 1928) Instructor at the Infantry School Ohrdruf; (March 1928 to January 1930) Staff Officer in the Training and Education Branch (Reichswehrministerium-Ausbildungsabteilung); (February 1930 to September 1932) Commander of the Cavalry School Jueterbog; (October 1932 to March 1935) Commander 1st Division Artillery; (April 1935 to March 1937) Inspector of Military Schools; (April 1937 to August 1939) Commanding General (Kommandierender General) I Corps, East Prussia; (September 1939) Commander in Chief 3d Army; (October and November 1939) Commander of East Prussian Defense Zone; (November 1939 to January 1942) Commander in Chief 18th Army; (January 1942 to January 1944) Commander in Chief Army Group North.

Promotions: (1918) Hauptmann (Captain); (1924) Major (Major); (1929) Oberstleutnant (Lieutenant Colonel); (1931) Oberst (Colonel);

(1935) Generalmajor (Brigadier General); (1937) Generalleutnant (Major General); (1937) General der Artillerie (Lieutenant General, Artillery); (1940) Generaloberst (General); (1942) Generalfeldmarschall (General of the Army).

JOHANNES BLASKOWITZ — Generaloberst (General); (1918) Captain at end of World War I; (1919) General Staff Officer with Army District (Wehrkreiskommando) V; (1921) General Staff Officer with Commander of Infantry (Infanteriefuehrer) District V; (1924) Commander 3d Battalion Infantry Regiment 13; (1928) Chief of Staff, 5th Division; (1930) Commander Infantry Regiment 14; (1933) Inspector of Armament Schools; (1935) Commanding General Army District (Wehrkreis) II; (November 1938 to August 1939) Commander in Chief Army Group Command (Heeresgruppenkommando) 3; (September 1939 to October 1939) Commander in Chief 8th Army; (October 1939) Commander in Chief 2d Army; (October 1939 to May 1940) Commander in Chief East (Oberbefehlshaber Ost); (May 1940) Commander in Chief 9th Army; (June 1940) Military Commander (Militaerbefehlshaber) Northern France; (October 1940 to May 1944) Commander in Chief 1st Army; (May 1944 to September 1944) Acting Commander in Chief Army Group G; (December 1944 to January 1945) Commander in Chief Army Group G; (January 1945 to April 1945) Commander in Chief Army Group H; (April 1945) Commander in Chief Netherlands and 25th Army.

Promotions: (1918) Hauptmann (Captain); (1922) Major (Major); (1926) Oberstleutnant (Lieutenant Colonel); (1929) Oberst (Colonel); (1932) Generalmajor (Brigadier General); (1933) Generalleutnant (Major General); (1936) General der Infanterie (Lieutenant General, Infantry); (1939) Generaloberst (General).

HERMANN HOTH — Generaloberst (General); (1918) Captain end of World War I; (August 1919 to March 1920) Company Commander Volunteer Militia Unit (Landjaeger Korps); (March 1920 to September 1920) Company Commander Infantry Regiment 32; (October 1920 to December 1920) Company Commander Infantry Regiment 18; (January 1921 to September 1923) Staff Officer in Ministry of National Defense; (October 1923 to September 1925) Staff Officer with Commander of Infantry (Infanteriefuehrer) District II; (October 1925 to December 1928) Staff Officer in Ministry of National Defense; (January 1929 to October 1930) Commander I Battalion, Infantry Regiment 4; (November 1930 to September 1932) Staff Officer I Corps; (October 1932 to January 1934) Commander, Infantry Regiment 17; (February 1934 to September 1935) Fortress Commandant Luebeck; (October 1934 to October 1935) Infantry Commander (Infanteriefuehrer) District III; (October 1935 to November 1938) Commander 18th Division; (November 1938 to November 1940) Commanding General XV Corps; (November 1940 to October 1941) Commander, Panzer Group 3; (October 1941 to April 1942) Commander in Chief 17th Army; (May 1942 to December 1943) Commander in Chief 4th Panzer Army.

Promotions: (1918) Hauptmann (Captain); (1924) Major (Major); (1929) Oberstleutnant (Lieutenant Colonel); (1932) Oberst (Colonel); (1934) Generalmajor (Brigadier General); (1936) Generalleutnant (Major General); (1938) General der Infanterie (Lieutenant General, Infantry); (1940) Generaloberst (General).

HANS REINHARDT — Generaloberst (General); (1918) Captain end of World War I; (January 1919 to March 1919) Company Commander Infantry Regiment 107; (March 1919 to March 1922) General Staff Officer, 24th

Infantry Division; (April 1922 to September 1925) General Staff Officer with Commander of Artillery in District IV, Dresden; (October 1925 to September 1927) Instructor Infantry School Ohrdruf and Dresden; (October 1927 to September 1931) Instructor of Tactics and War History; (October 1931 to February 1933) Commander III Battalion Infantry Regiment 10; (March 1933 to September 1933) Chief of Staff Military District (Wehrkreiskommando) IV; (October 1933 to October 1937) Chief of Army Training Department in the OKH (Heeresausbildungsabteilung); (October 1937 to November 1938) Commander 1st Rifle Brigade in the 1st Panzer Division; (November 1938 to February 1940) Commander 4th Panzer Division; (February 1940 to October 1941) Commanding General XLI Corps; (October 1941 to August 1944) Commander Panzer Group 3 (later 3d Panzer Army); (August 1944 to January 1945) Acting Commander in Chief of Army Group Center.

Promotions: (1918) Hauptmann (Captain); (1927) Major (Major); (1931) Oberstleutnant (Lieutenant Colonel); (1934) Oberst (Colonel); (1937) Generalmajor (Brigadier General); (1939) Generalleutnant (Major General); (1940) General der Panzertruppen (Lieutenant General, Armored Troops); (1942) Generaloberst (General).

HANS VON SALMUTH — Generaloberst (General); (1918) Captain at end of World War I; (March 1919 to April 1921) Staff Officer, Infantry Regiment I; (April 1921 to September 1922) Staff Officer, Army District (Wehrkreiskommando) 1; (October 1922 to September 1924) Staff Officer with Commander of Artillery (Artilleriefuehrer) District 1; (October 1924 to March 1927) Staff Officer with Fortress Commander Koenigsberg; (April 1927 to January 1930) Company Commander in Infantry Regiment 9; (January 1930 to September 1932) 1st General Staff Officer, Army District (Wehrkreiskommando) I; (October 1932 to November 1933) Commander Battalion I, Infantry Regiment 12; (December 1933 to October 1935) Chief of Staff Army District (Wehrkreiskommando) II; (October 1935 to October 1937) Chief of Staff II Corps; (October 1937 to August 1939) Chief of Staff Army Group Command (Herresgruppenkommando) 1; (September and October 1939) Chief of Staff Army Group North; (October 1939 to May 1941) Chief of Staff Army Group B, (May 1941 to February 1942) Commanding General XXX Corps; (April and May 1942) Acting Commander in Chief 17th Army; (June and July 1942) Acting Commander in Chief 4th Army; (July 1942 to February 1943) Commander in Chief 2d Army; (August 1943 to August 1944) Commander in Chief 15th Army.

Promotions: (1918) Hauptmann (Captain); (1928) Major (Major); (1932) Oberstleutnant (Lieutenant Colonel); (1934) Oberst (Colonel); (1937) Generalmajor (Brigadier General); (1939) Generalleutnant (Major General); (1940) General der Infanterie (Lieutenant General, Infantry); (1943) Generaloberst (General).

KARL HOLLIDT — Generaloberst (General); (1918) Captain at end of World War I; (April 1919 to September 1923) Regimental Adjutant (Regimentsadjutant) Infantry Regiment 15; (October 1923 to September 1925) Staff Officer in Ministry of National Defense; (October 1925 to March 1926) Commander 1st Squadron, Cavalry Regiment 3; (April 1926 to September 1927) Staff Officer with Infantry Commander (Infanteriefuehrer) District III; (October 1927 to September 1930) Company Commander in Infantry Regiment 12; (October 1930 to September 1931) Staff Officer in I Corps; (October 1931 to November 1933) Staff Officer in Army District (Wehrkreis) V as instructor for War History and Tactics;

(December 1933 to March 1935) Battalion Commander in Infantry Regiment 12; (March 1935 to November 1938) Chief of Staff Army District (Wehrkreis) I; (November 1938 to August 1939) Infantry Commander (Infanteriefuehrer) District 9; (September 1939) Commander Infantry Division 52; (September 1939 to October 1939) Chief of Staff 5th Army; (October 1939 to May 1940) Chief of Staff to the Commander in Chief East; (May 1940 to October 1940) Chief of Staff 9th Army; (October 1940 to January 1942) Commander 50th Infantry Division; (January 1942 to December 1942) Commander of XVII Corps; (December 1942 to March 1943) Commander Army (Armeeabteilung) Hollidt; (March 1943 to April 1944) Commander in Chief 6th Army; (February 1945) Liaison Officer to Party Chancellery under Reichsleiter Bormann and Deputy to Gauleiter Rhine-Westphalian Industrial District.

Promotions: (1918) Hauptmann (Captain); (1930) Major (Major); (1932) Oberstleutnant (Lieutenant Colonel); (1935) Oberst (Colonel); (1938) Generalmajor (Brigadier General); (1940) Generalleutnant (Major General); (1942) General der Infanterie (Lieutenant General, Infantry); (1943) Generaloberst (General).

OTTO SCHNIEWIND — Generaladmiral (Admiral); (1938) Lieutenant Senior Grade at end of World War I; (June 1919 to January 1920) British Prisoner of War; (June 1920 to December 1920) Commander of Mine Sweeper Flotilla; (January 1921 to June 1922) Staff Officer of Navy Station North Sea (Marinestation der Nordsee); (June 1922 to October 1924) Navy Staff Officer of Navy Command at Berlin (Marineleitung); (Fall 1924 to October 1926) Navy Adjutant to the Minister of War; (November 1926 to October 1928) Commander of Destroyer Squadron; (November 1928 to October 1930) Commander of Destroyer Flotilla; (1930 to 1932) Member of Fleet Staff (Flottenstab); (October 1932 to May 1934) Captain of Cruiser "Koeln"; (May 1934 to October 1937) Chief of Staff of Fleet (Chef des Flottenstabes); (October 1937 to November 1938) Chief of Navy Armament Office (Marine-Wehr-Amt); (November 1938 to May 1941) Chief of Navy Command Office (Marine-Kommando-Amt) and Chief of Staff of Naval War Staff (Seekriegsleitung); (June 1941 to July 1944) Commander of the Fleet (Flottenchef); (March 1942 to August 1942) Commander of Naval Battle Forces (Flottenstreitkräfte) in Norway; (March 1943 to May 1944) Commander of Naval Group North (Marinegruppe Nord).

Promotions: (1918) Kapitänleutnant (Lieutenant Senior Grade); (1925) Korvettenkapitän (Lieutenant Commander); (1931) Fregattenkapitän (Commander); (1933) Kapitän (Captain); (1937) Konteradmiral (Commodore); (1939) Vizeadmiral (Rear Admiral); (1940) Admiral (Vice Admiral); (1944) Generaladmiral (Admiral).

KARL VON ROQUES — General der Infanterie (Lieutenant General, Infantry); (1918) Major at end of World War I; (1919 to January 1933) Officer on Active Duty with the German Army (Reichswehr); (August 1934 to December 1939) Member of Civilian Air Raid Protection Service in Berlin; (April 1940 to March 1941) Division Commander in the Zone of the Interior; (March 1941 to June 1942) Commander of Rear Area, Army Group (rueckwaertiges Heeresgebiet) South; (September and October 1941) Commanding General of Group (Armeegruppe) von Roques; (July 1942 to December 1942) Commander Rear Area, Army Group A.

Promotions: (1918) Major (Major); (1925) Oberstleutnant (Lieutenant Colonel); (1928) Oberst (Colonel); (1931) Generalmajor (Brigadier Gen-

eral); (1938) Generalleutnant (Major General); (1941) General der Infanterie (Lieutenant General, Infantry).

HERMANN REINECKE — General der Infanterie (Lieutenant General, Infantry); (1918) Captain at end of World War I; (May 1918 to May 1924) Staff Officer in the High Command of the Army (Heeresleitung); (1924 to December 1927) Commander 13th Infantry Regiment Ortelsburg; (January 1928 to September 1932) On special duty in the Ministry of National Defense; (October 1932 to 1934) Battalion Commander 6th Infantry Regiment, Luebeck; (1934 to October 1936) On special duty in Ministry of National Defense; (November 1936 to 1937) Director of Ibero-American Institute — Berlin; (January 1939 to December 1939) Chief of the Department "Armed Forces General Affairs" (Amtsgruppe Allgemeine Wehrmachtangelegenheiten) in the High Command of the Armed Forces (Oberkommando der Wehrmacht "OKW"); (1939 to 1945) Chief of the General Office of the OKW (Allgemeines Wehrmachtamt); (1943 to 1945) Chief of the National Socialist Guidance Staff of the OKW (N.S. Fuehrungsstab im OKW).

Promotions: (1918) Hauptmann (Captain); (1929) Major (Major); (1933) Oberstleutnant (Lieutenant Colonel); (1935) Oberst (Colonel); (1939) Generalmajor (Brigadier General); (1940) Generalleutnant (Major General); (1942) General der Infanterie (Lieutenant General, Infantry).

WALTER WARLIMONT — General der Artillerie (Lieutenant General, Artillery); (1918) First Lieutenant at end of World War I; (1919) Officer in Free Corps Maerker; (December 1919 to September 1921) Adjutant Artillery Regiment 6; (October 1921 to September 1922) Battery Commander in Artillery Regiment 6; (October 1922 to September 1923) Inspection Officer, Infantry School at Munich; (October 1923 to September 1925) Staff Officer in Army District (Wehrkreiskommando) VI; (October 1925 to September 1926) Assigned to Ministry of National Defense for Training; (October 1926 to September 1928) Second Adjutant to Chief of Staff; (October 1928 to January 1929) Special duty with Army Ordnance Office (Heereswaffenamt) Military Economics Staff (Wehrwirtschaftsstab) in the Ministry of National Defense; (February 1929 to September 1929) Staff Officer with Artillery Regiment 1; (May 1929 to September 1930) On special duty in U.S.A.; (October 1930 to March 1933) Battery Commander Artillery Regiment 1; (April 1933 to June 1934) Chief of Industrial Planning in Ordnance Office (Waffenamt); (July 1934 to December 1936) Chief of Ordnance Office (Waffenamt); (August 1936 to November 1936) Military Envoy to General Franco in Spain and Leader of the German Volunteer Corps; (December 1936 to October 1937) Commander 2d Battalion Artillery Regiment 34; (October 1937 to November 1938) Commander Artillery Regiment 26; (November 1938 to September 1944) Chief of Department National Defense (Landesverteidigung) (L) in OKW; (January 1942 to September 1944) Deputy Chief WFSt (Wehrmachtfuehrungsstab) in OKW.

Promotions: (1918) Oberleutnant (First Lieutenant); (1925) Hauptmann (Captain); (1933) Major (Major); (1935) Oberstleutnant (Lieutenant Colonel); (1938) Oberst (Colonel); (1940) Generalmajor (Brigadier General); (1942) Generalleutnant (Major General); (1944) General der Artillerie (Lieutenant General, Artillery).

OTTO WOEHLE — General der Infanterie (Lieutenant General, Infantry); (1918) First Lieutenant at end of World War I; (1919 to 1921) Regimental Adjutant with Infantry Regiment 15; (1921 to 1923) Battalion Adjutant Infantry Regiment 15; (March 1923 to October 1926) Staff Officer with

Commander of Army District (Wehrkreis) V; (1927) Company Commander; (1928 to April 1931) Staff Officer with 3d Cavalry Division; (May 1931 to spring 1933) Company Commander, Infantry Regiment 6; (spring 1933 to summer 1934) General Staff Officer with the Commandant of the Fortress Kuestrin; (fall 1934 to September 1936) Operations Officer, 8th Infantry Division; (September 1936 to fall 1937) Operations Officer, VII Corps; (fall 1937 to spring 1938) On training duty in the Armed Forces Academy (Wehrmachtakademie) Berlin; (April 1938) Operations Officer Army Group 5 (later changed to AOK 14); (October 1939 to October 1940) Chief of Staff XVII Corps; (October 1940 to May 1942) Chief of Staff 11th Army; (May 1942 to February 1943) Chief of Staff Army Group Center; (February 1943 to July 1943) Commanding General I Corps; (July and August 1943) Acting Commander XXVI Corps; (August 1943 to December 1944) Commander in Chief 8th Army; (December 1944 to April 1945) Commander-in-Chief Army Group South.

Promotions: (1918) Oberleutnant (First Lieutenant); (1925) Hauptmann (Captain); (1932) Major (Major); (1934) Oberstleutnant (Lieutenant Colonel); (1937) Oberst (Colonel); (1943) Generalmajor (Brigadier General); (1943) Generalleutnant (Major General); (1943) General der Infanterie (Lieutenant General, Infantry).

RUDOLF LEHMANN — Generaloberstabsrichter (Lieutenant General, Judge Advocate); (1920) Assistant Public Prosecutor — Essen; (1921) Assistant in Reich Post Ministry; (January 1922 to February 1925) Judge of Circuit Court (Landgericht) II Berlin; (March 1925 to September 1937) Civil Service Employee in the Reich Ministry for Justice; (October 1937 to July 1938) President of a Department in the Reich Military Court; (July 1938 to September 1944) Ministerial Director and Chief of Legal Department (Wehrmachtrechtswesen) (WR) in OKW; (May 1944 to May 1945) Generaloberstabsrichter.

Promotions: (1920) Assistant Public Prosecutor; (1922) Judge; (1925) Permanent Civil Service Employee in the Ministry for Justice; (1937) President of a Department in the Reich Military Court; (1938) Ministerial Director; (1944) Generaloberstabsrichter.

ERICH RAEDER — Grossadmiral (Admiral of the Fleet); (1928 to 1945) Commander in Chief of the German Navy, and member of the Secret Cabinet Council.

GERD VON RUNDSTEDT—Generalfeldmarschall (General of the Army); (1918) Major at end of World War I; (October 1923 to February 1925) Chief of Staff 2d Division; (March 1925 to September 1926) Commander Infantry Regiment 18; (October 1926 to October 1928) Chief of Staff Army District (Wehrkreis) II; (November 1928 to December 1931) Commander 2d Cavalry Division; (January 1932 to September 1932) Commander 3d Cavalry Division and Army District (Wehrkreis) III; (October 1932 to October 1938) Commanding General I Corps; (September 1939) Commander in Chief Army Group South; (October 1939 to October 1940) Commander in Chief Army Group A; (October 1940 to April 1941) Commander in Chief West; (June 1941 to December 1941) Commander in Chief Army Group South; (March 1942 to July 1944) Commander in Chief West (Army Group D); (September 1944 to March 1945) Commander in Chief West.

WALTHER VON BRAUCHITSCH — Generalfeldmarschall (General of the Army); (1918) Major at the end of World War I; (October 1920 to September 1921) General Staff Officer with Commander of Artillery (Artillerie-

fuehrer) in District II; (October 1921 to October 1922) Battery Commander; (November 1922 to September 1925) Staff Officer in Ministry of National Defense; (October and November 1925) Staff Officer in Artillery Regiment 6; (December 1925 to October 1927) Unit Commander in Artillery Regiment 6; (November 1927 to January 1930) Chief of Staff 6th Division; (January 1930 to February 1932) Department Chief in the Ministry of National Defense; (March 1932 to January 1933) Inspector of Artillery; (February 1933 to June 1935) Commander 1st Division and Army District (Wehrkreis) I; (June 1935 to March 1937) Commanding General I Corps; (April 1937 to February 1938) Commander in Chief Army Group Command (Heeresgruppenkommando) 4; (February 1938 to December 1941) Commander in Chief of the German Army.

FEDOR VON BOCK—Generalfeldmarschall (General of the Army); (September 1939) Commander in Chief Army Group North; (October 1939 to April 1941) Commander in Chief Army Group B; (May 1941 to January 1942) Commander in Chief Army Group Center; (January 1942 to July 1942) Commander in Chief Army Group South.

WILHELM KEITEL—Generalfeldmarschall (General of the Army); (1938 to 1945) Chief of the High Command of the German Armed Forces and member of the Secret Cabinet Council.

ERICH VON MANSTEIN (formerly von Lewinski) Generalfeldmarschall (General of the Army); (1918) Captain at the end of World War I; (October 1921 to September 1923) Commander Company 6 in Infantry Regiment 5; (October 1923 to September 1924) Staff Officer in the 2d Division; (October 1924 to September 1927) Staff Officer in the 4th Division; (October 1927 to August 1929) Staff Officer with Commander of Infantry (Infanteriefuehrer) in District IV; (September 1929 to September 1932) Staff Officer in the Ministry of National Defense; (October 1932 to January 1934) Commander 2d Battalion, Infantry Regiment 4; (February 1934 to June 1935) Staff Officer in the 3d Division; (July 1935 to October 1936) Department Chief in the General Staff of the Army; (October 1936 to February 1938) First Quartermaster [Oberquartiermeister I] in the General Staff of the Army; (February 1938 to August 1939) Commander of the 18th Division, (October 1939 to February 1940) Chief of Staff of Army Group A; (February 1940 to March 1941) Commanding General XXXVIII Corps; (March 1941 to September 1941) Commanding General LVI Corps; (September 1941 to November 1942) Commander in Chief 11th Army; (November 1942 to March 1944) Commander in Chief Army Group South.

ALFRED JODL—Generaloberst (General); (1932 to 1945) Chief of the Operations Department (WFSt) in the OKW [1932-35, Section T-1, Reich Defense Ministry; 1935-38, Chief of Dept. L (Interior), Reich War Ministry.]

II. ARRAIGNMENT

Extracts of official transcript of Military Tribunal V A, Case No. 12, in the matter of the *United States of America vs. Wilhelm von Leeb et al.*, defendants, sitting at Nuernberg, Germany, on 30 December 1947, Judge John C. Young presiding.

PRESIDING JUDGE YOUNG: Military Tribunal V A will come to order. The Tribunal will now proceed with the arraignment of the defendants in Case No. 12 pending before this Tribunal.

The Secretary General will call the roll of the defendants.

DR. LATERNSEER (counsel for the defendant von Leeb) : If Your Honors please, I am Dr. Laternser, and I am defense counsel for the defendant von Leeb. I have also been chosen spokesman for the defense. Before this Tribunal proceeds with the arraignment of the defendants, I would like to put a motion for the whole of the defense.

I move that this Tribunal pronounce itself incompetent to try these defendants, and I would like to give my reasons for this motion. All generals who are defendants here were during the last war officers of the German Armed Forces. They were combatants in the meaning of Article I of the Annex to the Hague Convention for Land Warfare, and as such, they were captured by the enemy. According to the Geneva Convention they are consequently entitled to be recognized as prisoners of war. Already during peacetime it was recognized that a soldier is under a special law; soldiers have to be his judges. It is so everywhere, because even in peace the life of a soldier is governed by different conditions compared with the life of an ordinary citizen. Much more so does this apply in war. It is therefore all the more important that actions committed in war by a soldier should be judged by a court consisting of soldiers. The United States acts in accordance with this rule concerning their own soldiers. The rights of the soldier prisoner of war are governed by the Rules of the Geneva Convention. In accordance with Article 63, sentence on a prisoner of war can only be pronounced by the same courts and according to the same procedure as applied to a member of the state holding the prisoner. It is however, not undisputed whether or not the state holding the prisoner is at all competent to try acts which were committed by the prisoner before he was captured. If one answers this question in the affirmative, irrespective for what reasons, then Article 63 of the Geneva Convention applies to this extent. The range of acts committed during captivity is not a very extensive one. They are

mainly questions of disobedience, insubordination towards sentries and superiors, mutiny, etc., but that the Geneva Convention for these offenses provides for trial by a military court will not be disputed even by the prosecution. The legal basis for this provision applies all the more to acts committed in war, which were committed within the sphere of the high military leadership and within the OKW. All these are acts, the judgment of which requires special expert knowledge based on personal experience.

Your Honor, this is not only recognized by British courts, which, for instance held the proceedings against Field Marshal Kesselring before a proper military court; the practice of the United States runs along similar lines. Thus recently, in the proceedings against Skorzeny before a military tribunal in Dachau, the tribunal consisted of American officers. This conclusively proves that the defendants have the right to a trial before a military court, which according to Article 12 of the Articles of War of the United States, should be a general court martial. This general court martial, according to Article 16 of the same rules, has to consist of officers of at least the same rank.

For these reasons, Your Honor, I have put the motion that this Tribunal should pronounce itself not competent to judge these defendants.

PRESIDING JUDGE YOUNG: May I inquire if counsel has filed this motion with the Secretary General?

DR. LATERNSEER: If Your Honor please, I have not filed this motion in writing because, on the basis of the Rules of Procedure, that is on the basis of Article 11, I am of the opinion that the question of competence will become clear from the proceedings; and for such questions as arise from the proceedings, as I understand the Rules of Procedure, we have the oral proceedings.

If the Tribunal so desires, I shall certainly immediately put this motion in writing. I put this motion at this moment, Your Honor, because in the opinion of the defense, the defendants are only obliged to plead before a competent tribunal. If this Tribunal should reach the opinion that it is not competent, this arraignment of the defendants here would then be obviated.

PRESIDING JUDGE YOUNG: General Taylor, have you any comment to make on this motion?

GENERAL TAYLOR: Your Honor, I would like to make three very brief comments. Firstly, as to procedure: This is the type of motion which has invariably been filed in writing under Rule No. 10 of the Uniform Rules. We, of course, have not seen it. I would respectfully suggest that Dr. Laternser should be asked to file a

motion in writing; the prosecution will answer it in writing; and the Court can, if it so desires, set it for argument.

Secondly, the question raised in the motion is not novel, as the same point has been made in other proceedings here and has been rejected. I also believe it to be dealt with in the Wehrmacht decision of the Supreme Court, all of which matters we can cover in our answer to the motion.

Thirdly, different charges against officers of the German Armed Forces in this theater have been a matter of general policy. It is not a matter peculiar to this case in any way. Under general theater policy all officers of the German Armed Forces have been charged, and there is nothing peculiar about the situation of the defendants in that regard.

That is all I have to say.

PRESIDING JUDGE YOUNG: Under the circumstances, and there being ample time before the actual trial of this case begins, counsel representing the defendants will file this motion with the Secretary General, and prior to—or at—the beginning of the trial the same will be ruled upon by this Tribunal.*

The Secretary General will call the roll of the defendants.

SECRETARY GENERAL: Each defendant will stand and answer “present” when his name is called, and be seated.

Defendant Wilhelm von Leeb.

DEFENDANT VON LEEB: Here.

[At this point the roll of the remaining defendants was called.]

SECRETARY GENERAL: May it please the honorable Tribunal, all the defendants are present in Court.

PRESIDING JUDGE YOUNG: Mr. Secretary General, the record will so indicate. Unless there be objections, the reading of the indictment will be dispensed with. Hearing no objection, it is so ordered. Mr. Secretary General, the record will so indicate.

* The prosecution filed a written answer and memorandum in opposition to the defense motion on 7 January 1948, and the defense, in turn, filed a reply to the answer of the prosecution on 13 January 1948. These arguments are not reproduced herein. On 5 February 1948, the Tribunal denied the defense motion in the following language: “There are three preliminary and interlocutory matters requiring disposition before the commencement of the trial. * * * The first is an order on the motion attacking the competency of the Tribunal. The Court order is as follows, omitting from the reading the formal caption on the order: “The motion for the discharge of the defendant von Leeb and the other defendants in this case, filed 30 December 1947, on the ground of the incompetency of this Tribunal to try said defendants, has been ably briefed by learned counsel for the movers, who are to be commended for their industry and ingenuity. The majority opinion of the Supreme Court of the *United States in re Yamashita*, 327 U.S. Reports, page 1, held that part III, Article 63 of the Geneva Convention, relied upon by movers as supporting their motion, was applicable only to judicial proceedings directed against a prisoner of war for offenses committed while a prisoner of war. While this case may not be an authority binding us, we think the reasoning of the case is sound, and therefore we concur in and adopt it as the law of this case. This makes it unnecessary to consider the other matters raised in opposition to the motion. Said motion is not well taken and the same should be and is overruled.” (Tr. pp. 17-18.)

The defendants will now be called upon to plead guilty or not guilty to the charges against them. Each defendant as his name is called will stand and speak clearly into the microphone. At this time there will be no arguments, speeches, or discussions of any kind. Each defendant will simply answer the question put to him, and then plead guilty or not guilty of the offenses with which he is charged in the indictment.

Mr. Secretary General, call each defendant.

SECRETARY GENERAL: The defendant Wilhelm von Leeb.

PRESIDING JUDGE YOUNG: Wilhelm von Leeb, are you represented by counsel before this Tribunal?

DEFENDANT VON LEEB: Yes.

PRESIDING JUDGE YOUNG: Was the indictment in the German language served upon you at least 30 days ago?

DEFENDANT VON LEEB: Yes.

PRESIDING JUDGE YOUNG: Have you read the indictment?

DEFENDANT VON LEEB: Yes.

PRESIDING JUDGE YOUNG: How do you plead to this indictment, guilty or not guilty?

DEFENDANT VON LEEB: Not guilty.

PRESIDING JUDGE YOUNG: Be seated.

DR. LATERNSEER: If Your Honor please, I beg to apologize for interrupting for a moment. I would like just to make this statement, namely, that through this arraignment the question as to the competency of this Tribunal should not be suspended. Your Honors, I am not quite sure whether I have been understood correctly. I don't know what translation was given. What I would like to state now, as counsel for Field Marshal von Leeb, is that I maintain the point of view that through this arraignment the competency of this Court has not been established and agreed upon.

PRESIDING JUDGE YOUNG: If I understand, counsel, his contention is that by these defendants pleading under this arraignment he does not desire it be held that the point of jurisdiction, or the competency of the Tribunal, has been waived by the plea, is that correct?

DR. LATERNSEER: Yes, Your Honor, it is.

PRESIDING JUDGE YOUNG: The motion having been interposed, this Tribunal will not so construe it but will pass upon the motion

as though no pleas had been entered, or as though the motion had been ruled upon before the arraignment was had.

Mr. Secretary General, you will call the next defendant.

SECRETARY GENERAL: The defendant Hugo Sperrle.

PRESIDING JUDGE YOUNG: Hugo Sperrle, are you represented by counsel before this Tribunal?

DEFENDANT SPERRLE: Yes.

PRESIDING JUDGE YOUNG: Was the indictment in the German language served upon you at least 30 days ago?

DEFENDANT SPERRLE: Yes.

PRESIDING JUDGE YOUNG: Have you read the indictment?

DEFENDANT SPERRLE: Yes.

PRESIDING JUDGE YOUNG: How do you plead to this indictment, guilty or not guilty?

DEFENDANT SPERRLE: Not guilty.

[At this point the remainder of the defendants were arraigned. Each declared that he was represented by counsel and that the indictment had been served upon him in the German language at least 30 days before arraignment, and each pleaded "not guilty".]

PRESIDING JUDGE YOUNG: Mr. Secretary General have all the defendants pled to this indictment?

SECRETARY GENERAL: Yes, Your Honor.

PRESIDING JUDGE YOUNG: The pleas of the defendants will be entered by the Secretary General in the records of the Tribunal.

SECRETARY GENERAL: Yes, your Honor.

PRESIDING JUDGE YOUNG: Mr. Secretary General, is there any further matter, so far as you know, to be brought before this Tribunal at this time?

SECRETARY GENERAL: No, Your Honor.

PRESIDING JUDGE YOUNG: There being no further business, the Tribunal will recess to a date to be later determined.

III. OPENING STATEMENTS OF THE PROSECUTION AND DEFENSE

A. Opening Statement of the Prosecution ¹

GENERAL TELFORD TAYLOR: If it please Your Honors. The prosecution will observe the injunctions of the Court laid down this morning,² and as to the matter of expedition, it is our estimate that we can put in the prosecution's case in less than 20 trial days.

Your Honors. This year is the three hundredth since the end of the Thirty Years' War, which once was thought the most destructive in the history of man, and Nuernberg lies among its battlefields; a few miles from here Gustavus Adolphus and Wallenstein fought at the "Alte Feste". These 30 years left much of Germany devastated, and dislocated its economy for decades. But all that misery was the merest trifle compared to the havoc recently wrought in six short years, throughout Europe and the Orient.

The comparison between 1648 and 1948 is not original, and few will openly dispute its cogency. Men at war have ceased to toy with popguns and have taken to hurling thunderbolts, and civilization can no longer afford such self-mutilation. It was the acute awareness of these truths, forced upon us by the First World War, which has led to the general condemnation of those who wilfully launch a war of conquest as criminals in the deepest and most serious sense.

These proceedings at Nuernberg, in which crimes against peace are charged, are vitally important because the principles to be applied here are man's best protection against his own capacity for self-destruction. When we say that aggressive war is a crime, we mean it to exactly the extent to which we are prepared to treat it as criminal in a judicial proceeding. No principle deserves to be called such unless men are willing to stake their conscience on its enforcement.

In this proceeding, we ask the Tribunal to test the conduct of men who stood at the top of the German profession of arms. In

¹ Opening statement is recorded in mimeographed transcript 5 February 1948, pp. 20-152.

² General Taylor refers to the request of Presiding Judge Young; "that each separate functioning branch of the Tribunal cooperate to the fullest extent possible with all other branches of the Tribunal to the end that there may be a proper and expeditious presentation of the case of the prosecution and the defense, to the end that there may come out of this case the result that should be sought by all right-thinking men in any judicial forum: a judgment that on the facts and the law as nearly as possible approximates justice". (Tr. p. 17.)

most countries, arms is one among a number of callings. It is a respected and honorable occupation, and it will be an absolutely necessary profession as long as organized force plays an important part in the affairs of men. But it is the true and high purpose of this profession to protect, not to subject. The military art is never to be practiced for its own sake; the death and destruction which the use of arms entails is redeemed and ennobled only when the sword is the guardian and restorer, not the destroyer, of peace.

But in Germany, the military profession was not merely one among many. The German officer was accorded a very unique and exalted role. A century and a half ago the Frenchman Mirabeau wrote that "Prussia is not a state that possesses an army; it is an army that has conquered a nation." And it is because of the dominant part which military matters have played in the life and thought of Germany ever since the time those words were written, that this twelfth and last case before the Nuernberg Military Tribunals may well prove of greater importance to Germany than any other case heard in this courtroom. In saying this, we by no means, mean to depreciate the significance of the issues at stake in other cases which are being or have been held here. But the evidence here is closely related to one of the strongest currents in German thought, which may be aptly entitled "Arms and the German."

The defendants are charged not only with the unlawful use of war, but also with its abuse. The laws and customs of war, which mitigate its ravages, have never won more than lip loyalty from the German militarists. The German Military Manual openly scoffs at the Hague Convention as being derived from "humanitarian considerations which not infrequently degenerated into sentimentality and flabby emotion."¹ The terrible consequences of this ruthless nihilism are not, even today, fully grasped. Millions of innocent civilians were slaughtered by troops under the command or control of the defendants and their colleagues, not in pursuit of any legitimate military objective, but in furtherance of the basest Nazi racial and social myths. The defendant von Kuechler, for example, as the documents prove, observed Christmas Day in Russia 1941 by authorizing the killing of 230 incurable invalids in an asylum at Makarjeskaja [Markarevskaya] on the basis of a subordinate report which stated that (NOKW-2268, *Pros. Ex. 678*)²:

" * * * according to German conception the inmates of the asylum no longer represent objects with lives worth living."

¹ Morgan, J. H., "Kriegsbrauch im Landkriege," translated in *The War Book of the German General Staff* (McBride, Nast and Co., New York, 1915), p. 71.

² Document reproduced in section VII B 3.

We have said that the military profession was esteemed above all others by many Germans, and the German Officers' Corps included men of great ability and high character. To these men we mean no dishonor in this proceeding. The issues here are far too grave to warrant any tricks of advocacy; the evidence is quite compelling enough and will provide its own eloquence. These members of the German Officers' Corps who have the capacity for clear vision and the courage to face the facts will welcome this opportunity for emergence of truth.

COUNTS ONE AND FOUR—THE REICHSWEHR AND THE WEIMAR REPUBLIC (1919–1933)

In presenting the evidence under count one of the indictment, the prosecution plans to deal summarily with the years prior to the advent of Hitler. But we must not overlook the fact that most of these defendants were not Nazis in the usual sense of the word, and that they are charged with the commission of crimes, not as Party members, but as military leaders. The moral outlook and purposes which resulted in these crimes were not invented by Hitler, but were developed by the defendants and their predecessors in the German Officers' Corps. Mr. Justice Oliver Wendell Holmes has observed that, in some circumstances, "a page of history is worth a volume of logic." And we believe that the story of the German Army since the First World War, very briefly treated, will do much to illuminate the issues in this case.

THE ARMS LIMITATIONS OF THE VERSAILLES TREATY

The most fundamental circumstance in Germany's military structure during the Weimar Republic was, of course, the Treaty of Versailles. Under part V of the treaty, the military, naval and air clauses, precise limitations were prescribed for the size and nature of the German Armed Forces, and compliance with these provisions was to be ensured by Inter-Allied Commissions of Control.¹ Such commissions—military, naval and aeronautical—arrived in Germany in September 1919.

The air clauses² of the treaty need not detain us long. Military and naval aviation was completely prohibited by providing that "the Armed Forces of Germany must not include any military or naval air forces".

The naval clauses³ were, of necessity, more elaborate. Like military aircraft, submarines were completely prohibited. As for sur-

¹ Treaty of Versailles, Part V, Articles 203–210.

² *Ibid.*, Articles 198–202.

³ *Ibid.*, Articles 181–197.

face craft, the navy was restricted to six each of battleships and light cruisers, and twelve each of destroyers and torpedo boats. The tonnage of newly-built units was limited: battleships 10,000 tons, light cruisers 6,000 tons; and the rate at which naval units could be replaced was also specified. The personnel of the German Navy was not to exceed 15,000 officers and men.

Most important for our purposes are the military clauses.¹ By Article 160 it was stipulated that, after 31 March 1920,² the German Army should not exceed ten divisions—seven infantry and three cavalry divisions—comprising not over 100,000 officers and men, and grouped under not more than two corps headquarters. The so-called “Great German General Staff” was to be dissolved and not “reconstituted in any form.” The army was not to be designed for any warlike purpose; it was expressly stated in the treaty that: “The army shall be devoted exclusively to the maintenance of order within the territory, and to the control of the frontiers.”

Other provisions were intended to ensure that the “100,000-man Reichswehr” should not be used as a means of training a large reserve. Compulsory military service was abolished. Newly appointed officers had to agree to serve for 25 years, and enlisted men for 12 years.

The armament and munitions limitations were equally important. Tanks and poison gas were prohibited. Precise schedules fixed the maximum amounts of guns and small arms of specified calibers, and stocks of ammunition, which were permitted to be maintained. Within Germany, arms could be manufactured only at certain factories listed by the Allied powers; all other munition plants were to be “closed down.”

And, finally, special safeguards were provided by the demilitarization of the Rhineland.³ In Germany, west of the Rhine and east of the Rhine, to a depth of fifty kilometers, no armed forces were to be maintained or assembled. Forts and field defense works were likewise forbidden within this area.

ORGANIZATION OF THE ARMED FORCES

The organization of the German Armed Forces under the Republic reflected these arms limitation clauses. There was no German Air Force. The army and navy were brought together in a single cabinet ministry, which was pacifically named the Reich Defense Ministry (Reichswehrministerium).

Sovereign authority over the Reichswehr was divided between the President of Germany and the Cabinet, acting through the

¹ *Ibid.*, Articles 159–180.

² This date was subsequently postponed to 30 June 1920.

³ Treaty of Versailles, Part III, Articles 42–44 and Part V, Article 180.

Chancellor and the Reich Defense Minister. The President was the Supreme Commander of the Armed Forces.¹ But because of the parliamentary form of government, the development and execution of government policies was in the hands of the Cabinet. Therefore all presidential orders pertaining to the armed forces had to be countersigned by the Reich Chancellor or the Reich Minister of Defense.²

The 100,000-man army and the 15,000-man navy were established on 1 January 1921. The army was headed by a general with the title "Chief of the Army Command", and the navy by an admiral entitled "Chief of the Navy Command".³ These commanders and their staffs were established within and as part of the Reich Defense Ministry, and in a governmental sense they were subordinate to the Reich Defense Minister; but, in the military chain of command, their supreme commander was the Reich President. The Reich Defense Minister himself had only a small staff, and most of the actual work of the armed forces was done by the staffs of the army and navy chiefs.

Because the first Reich President (Ebert) and the first two Defense Ministers (Noske and Gessler) were all civilians, the army and navy chiefs were the military commanders in chief of the two services. Their staffs were organized much as were the army and navy staffs in other countries. In view of the prohibition of the Versailles Treaty⁴ there was no Army General Staff by that name; but, the functions of an Army General Staff were performed by the so-called "Troops Department" (Truppenamt) of the army command. Like any general staff, the Troops Department had sections for operations, training, intelligence, and organization.

In the field, Germany was divided into seven military districts (Wehrkreise), corresponding to the seven infantry divisions allowed by the treaty. In each military district was an infantry divisional headquarters which also controlled all military activities with the military district, such as recruitment, pension, training, etc. Again following the treaty limitation of the army to two corps headquarters, the military districts of eastern Germany were grouped under an "Army Group Headquarters" (Gruppenkommando) at Berlin, and those in western Germany under a similar headquarters at Kassel. There were also three cavalry divisional headquarters without territorial jurisdiction.

¹ Weimar Constitution, Article 47.

² Ibid., Articles 50 and 56.

³ Reich Defense Law of 28 March 1921.

⁴ Treaty of Versailles, Part V, Article 160.

CLANDESTINE REARMAMENT—VON SEECKT (1920–1926)

Restricted by the treaty provisions described above, the Reichswehr of the Weimar Republic bore little outward resemblance to the mighty army of the Kaiser. But the purpose, the intelligence, and the energy, and determination to salvage as much as possible from the wreckage, and start to rebuild Germany's military might, were not lacking, either in the army or the navy. They found their most effective focus in the brain of the Chief of the Army Command, General Hans von Seeckt.

There is no occasion now to debate the merits or demerits of the Treaty of Versailles. The important fact here is that, whatever they might say publicly, von Seeckt and the other military leaders of Germany unqualifiedly rejected the treaty, and all their plans were directed to its overthrow. Their immediate purpose, therefore, was to bring about as soon as possible a state of affairs which would permit Germany to recreate her once formidable military engine.

Von Seeckt's plan of campaign to achieve these ends was flexible, but was based upon about half a dozen basic principles. The first of these principles, designed to preserve the army's prestige in the eyes of the German people, was intensive cultivation of the legend that the German Army was not defeated in the First World War. Thus, when Field Marshal von Hindenburg appeared before a legislative committee of inquiry in November 1919, he testified that:

"In spite of the superiority of the enemy in men and material, we could have brought the struggle to a favorable issue if determined and unanimous cooperation had existed between the army and those at home * * *. The German Army was stabbed in the back. It is plain upon whom the blame lies. If any further proof were necessary to show it, it is to be found in the utter amazement of our enemies at their victory."

Secondly, the traditions of the old imperial army were to be preserved. There was to be no "democratizing" of the new Reichswehr. Prussian concepts of discipline and "honor" persisted, and the prerogatives of the Officers' Corps were safeguarded. As a practical matter, the Officers' Corps remained closed to Jews. Despite the fact that the Reichswehr's oath of allegiance was given to the President of the Republic, the spirit of the Officers' Corps continued to be autocratic; monarchism was tolerated and was not uncommon.

Von Seeckt's third basic principle was that the Reichswehr should hold itself aloof from and above internal party politics in Germany. The Weimar Republic was a frail ship on a stormy sea.

The economic aftermath of war, and in particular the disastrous inflation of 1922 and 1923, caused great unrest. Cabinets rose and fell and chancellors came and went amid unstable political conditions. Rather than risk the army's prestige in this maelstrom of party politics, von Seeckt wisely held the army apart from any party, and discouraged political party activity within the Officers' Corps.

But this is not to say that the army was not a political fact, or that von Seeckt had no political attitude. Quite the contrary; the army was above politics because, in a sense, it dominated them. Sedulously and skillfully, von Seeckt brought about, among the leading politicians of all parties, a feeling that the government was dependent upon the Reichswehr for its protection and to insure its continued existence. When industrial unrest and workers' demonstrations were quelled by the Reichswehr, von Seeckt appeared as the guardian of the Republic against communism. When the much more serious threat of reactionary revolution culminated in actual attempts to overthrow the Republic—such as the Kapp Putsch of 1920, and the Hitler-Ludendorff Putsch in 1923—the army again emerged in the role of savior, despite the fact that military leaders were among the participants.

Fourthly, von Seeckt brought about close relations between the Reichswehr and the Soviet Union's Red Army. The fact that the officers' corps was reactionary was not allowed to obstruct this policy. Since the army's principal purpose was the overthrow of the Versailles Treaty, von Seeckt sought alliance with the one major European power that had no interest in upholding it. The Treaty of Rapallo, signed by Germany and the Soviet Union in 1922, set the official seal upon the unofficial close relations which already existed between the military leaders of the two countries.

Fifthly, von Seeckt saw that the Reichswehr could best compensate for its small size by keeping in the forefront on questions of military technique. The greatest emphasis was put on the improvement of weapons and equipment, and on experience in handling the newer weapons, such as tanks. German officers were sent to Russia to train with the Red Army in the handling of heavy artillery, tanks, and other weapons forbidden to Germany under the Versailles Treaty.

The training of German officers with the Red Army was, indeed, only one of many ways in which the arms provisions of the treaty were evaded and violated by the Reichswehr. And von Seeckt's sixth and last principle was that the treaty imposed no obligation on the Wehrmacht [the German Armed Forces]* to comply with

* German terms have been translated, whenever possible, for the publication of this trial. Throughout this opening statement by the prosecution, however, the term "Wehrmacht" was used in Court when referring to the German Armed Forces; consequently this term has been left untranslated throughout this chapter.

its provisions, and should be violated in every way which would further the rebuilding of Germany's armed might. Contempt for the binding character of treaties was not an invention of Adolf Hitler.

For the time being, of course, rearmament had to be clandestine. In this hidden rearmament, von Seeckt found willing allies in various high political officials and in the huge armament firm of Krupp. With the assistance of Chancellor Joseph Wirth and the Reich Finance Ministry, government funds were secretly made available to Krupp for illegal gun design and development activities directed by the Reichswehr. These informal arrangements were embodied in a "gentleman's agreement," on 15 January 1922, between army and navy representatives and the Krupp firm which, as Krupp records show, was:

" * * * the first step taken jointly by the Reich Defense Ministry and Krupp to circumvent, and thereby to break down, the regulations of the Treaty of Versailles which strangled Germany's military freedom."

The navy did not lag behind. In 1922, with the approval of the Chief of the Navy Command (Admiral Behnke), Krupp and other shipyards established a German submarine construction office in The Hague, under cover of Dutch incorporation. The purpose of this company (called the I.v.S.) was, as German naval records reveal, to keep together an efficient German submarine office and, by practical work for foreign navies, to keep it in constant practice and on top of technical developments.

CLANDESTINE REARMAMENT—VON SCHLEICHER

(1927-1933)

By the time of von Seeckt's retirement in October 1926, Germany's military and political situation was greatly improved. Hindenburg, the nation's idol, had become President after Ebert's death in 1925. With Hindenburg's support, Gustav Stresemann achieved a measure of political stability within Germany, and abroad; he joined in the Locarno Pact, under which Allied evacuation of the Rhineland began in 1926, and Germany was admitted to the League of Nations.

Within Germany, the prestige of the army had been reestablished. The election to the presidency of Hindenburg—a retired field marshal and, in public estimation, Germany's greatest military hero—strengthened the Reichswehr enormously in a political sense. More practical military advantages accrued from the Locarno Pact; in the course of the Locarno settlement, Stresemann's

arguments, that the Inter-Allied Control Commissions should be wound up and withdrawn, prevailed. In January 1927, the last staff members of the commission left Germany, and thereby Allied supervision of compliance with the arms limitation clauses of the treaty came to an end.

New faces appeared in the highest positions at about this time. As Chief of the Army Command, von Seeckt was succeeded by General Heye, who, in turn, gave way to General Kurt von Hammerstein-Equord in November 1930. In 1928, Admiral Erich Raeder became Chief of the Navy Command, a position he was to hold for 15 years. In 1929, the growing influence of the army was again shown when the civilian Minister of Defense, Gessler, was replaced by Groener who, though nominally a civilian, was a retired general and one of the leading military figures of the First World War.

Behind many of these personnel changes, and taking a constantly larger share in guiding the destinies of the Reichswehr, was General Kurt von Schleicher. A regimental comrade of Hindenburg's son Oskar, von Schleicher had become a protege and favorite of the old Reich President, as well as of Groener. In 1928, in order to provide the Minister of Defense with better staff assistance, and to improve coordination of matters of interest to both the army and navy, a new staff section was established directly under the Minister of Defense called the "Armed Forces Section" (Wehrmacht-Abteilung). Von Schleicher became its chief, and utilized this position and his personal contacts with Hindenburg, Groener, and Hammerstein, to achieve great political and military influence. In 1929, his section was renamed "Ministeramt", the Ministry Department, and von Schleicher was given the title of Deputy Minister of Defense.

Von Schleicher, as is well known, became the last Chancellor of the Weimar Republic, save only Hitler himself, who destroyed it. Although Schleicher had been an early supporter of Chancellor Bruening, his attitude changed after Hindenburg's election to a second term as President, in April 1932. Soon thereafter he persuaded Hindenburg to sack Bruening and appoint Franz von Papen, who became Chancellor in June 1932. Schleicher himself relinquished his military rank and became the Minister of Defense in Papen's cabinet. The elections of November 1932, and Papen's own instability, brought about the fall of his cabinet, and in December von Schleicher became Chancellor. His tenure was short; Papen who had charmed Hindenburg, struck a bargain with Hitler; on 28 January 1933, Hindenburg dismissed Schleicher, and on 30 January, Hitler became Chancellor in a coalition cabinet with Papen as vice-Chancellor.

But if the era of von Schleicher had been one of political vicissitudes, the Reichswehr itself had been further strengthened. Although von Schleicher himself became enmeshed in party politics, the army as a whole did not, but continued in the general lines laid down by von Seeckt. In particular, clandestine rearmament in violation of the Versailles Treaty continued with quickened pace, and with the strong moral support of Hindenburg's secret approval.

It was, of course, well understood by all concerned that this secret rearmament was not only a violation of international law, but was also forbidden by Germany's internal law. The legal expert of the Reich Defense Ministry, in an opinion written in January 1927, declared that, " * * * the Peace Treaty of Versailles is also a law of the Reich, and by reason of this, it is binding on all members of the Reich at home. This commitment ranks superior even to the provisions of the Constitution of the Reich * * * ." And another memorandum prepared during the same month within the troops department of the army command, stated:

"When, years ago, preparations for mobilization were started, and after the clarification of the international and constitutional aspects of the affair, and in full recognition of the fact that in no respect was any legal foundation present, other means were knowingly and purposefully used. A few serving officers were asked whether they would be prepared, and whether their conscience would permit them, to participate in activities which were necessary from the point of view of their Fatherland, but contrary to its law. The military offices as such were bypassed. High-ranking officers did not participate openly, so that they did not have to bear the odium of a conscious breach of the law. In important fundamental matters, they issued directives *sub rosa* to individual confidential agents."

It may also be noted that this accelerated secret rearmament began during the years 1926-1929, when international relations seemed comparatively harmonious. As part of the Locarno settlement, the Inter-Allied Commissions of Control were withdrawn, but to the German Government and the Reichswehr this meant merely that they could now proceed with clandestine activities without fear that the commissions might find them out. As Krupp records reveal, the commissions' departure was regarded as "an important step on the road towards freedom", because, "after the departure of the commission", the army and Krupp "had more of a free hand" to carry on the prohibited artillery development work which they were engaged in together. They also found it possible to commence tank and armored car development work. The Reich

Government now dared to assist more extensively; a secret document of the German Navy tells us that, beginning in 1927 “* * * German rearmament was put on a basis which was more and more expanded by the sharing of responsibility by the Reich Government * * *.” It tells us further that a “secret special budget” was set up to cover unlawful military expenses, which increased from 6,800,000 Reichsmarks in 1928 to 21,000,000 in 1933.

By the time the Weimar Republic was nearing its end, the Reichswehr had ample cause for satisfaction with the progress it had made in rearmament despite the Versailles Treaty. At Christmas time in 1932, Colonel Zengauer, a department chief in the Army Ordnance Office, accompanied the season’s greetings to Krupp with the information that, “The department is convinced that, thanks to your active cooperation and valuable advice, our armament development in 1932 has made great progress, which is of great significance to our intent of rearming as a whole.”

When this was written, Hitler’s appointment as Chancellor was only 5 weeks in the future. Many terrible changes were in store for Germany, but it is a mistake to overlook that the Weimar Republic and the Third Reich had numerous common denominators, and that the Reichswehr was the most important link between the two. What the German military leaders accomplished under the Republic was a vitally important part of the process of German rearmament for aggressive war. This will become increasingly clear as we examine the development of events under Hitler and the Third Reich.

COUNTS ONE AND FOUR—THE WEHRMACHT AND THE THIRD REICH (1933–1938)

MR. MCHANEY: The events leading to Hitler’s appointment as Chancellor, on 30 January 1933, need not here be set forth again. We do not charge that the Reichswehr bears any special responsibility for Hitler’s selection. We may, indeed, criticize the military leaders for not actively opposing the appointment of a man whose criminal program had been so brazenly proclaimed; but however blameworthy this failure was, it is not charged as criminal in the indictment.

But Hitler’s appointment as Chancellor was only dictatorship in embryo. The infant was actually born only with the suspension of the constitution, the suppression of all civil liberties, and the abolition of political opposition. Thereafter there came a stormy childhood and a violent adolescence before the terrible full maturity of the Third Reich was reached. During this time, the Wehrmacht’s leaders did not stand aside. They took a leading part in

the development of the Third Reich, and the Wehrmacht was a key pillar in the finished structure. And in so doing, the German military leaders, including these defendants, committed crimes against peace by preparing and launching aggressive wars.

In conclusion we will make a few observations on *why* this happened. For the moment we will restrict ourselves to an account of *what* actually happened. And we will start with a description of the changes in the structure of the Wehrmacht which followed Hitler's accession to power, in the course of which we shall see how the individual defendants fitted into the structure.

In Hitler's cabinet, the position of Minister of Defense was for the first time bestowed on a general, Werner von Blomberg, who remained on active service. The principal staff division of the ministry—the Ministeramt, which under Schleicher had acquired such importance—was now renamed the, "Armed Forces Department" (Wehrmachtamt). As its Chief, Blomberg appointed General von Reichenau, who had been his Chief of Staff in East Prussia, and who was known as pro-Nazi.

Admiral Raeder's tenure as Chief of the Naval Command continued undisturbed. General Hammerstein, however, was personally anti-Nazi and endured the Hitler regime for only a year. It must not be thought, however, that at this stage Hitler was strong enough to dictate the selection of the army's leader. Hammerstein's successor as Chief of the Army Command, General Werner von Fritsch, was the choice of Hindenburg and the Officers' Corps; he perpetuated von Seeckt's reserved attitude toward party politics.

Within the army, policies were determined largely by von Fritsch and the senior generals. Among these, the most senior were von Rundstedt and the defendant von Leeb, the Commanders in Chief of the two army group headquarters at Berlin and Kassel. Slightly younger was a group of 12 or 15 generals, including the defendants von Kuechler and Blaskowitz, who were military district commanders at the time of Hitler's accession to power, or became such within a few years thereafter. Hoth, Reinhardt, von Salmuth, and Hollidt were all in their forties and all became generals between 1934 and 1938. Reinhardt, as a colonel, was Chief of the Training Section of the army from 1934 to 1937, and thus played a part in the high-level military planning. Reinecke was on special duty in the War Ministry beginning in 1934. Warlimont occupied an important post in the Army Ordnance Office from 1933 to 1936, and then was sent as Military Plenipotentiary to General Franco in Spain.

We may pass for the moment the defendants von Roques, Woehler, and Lehmann, who did not play important parts until

1938 or later. The remaining two defendants, Sperrle and Schniewind, were among the most senior officers of the air force and the navy, respectively. Sperrle was a regular army officer who went on special duty with the newly created Air Ministry in 1934, and became the commander of the so-called, "Condor Legion," in Spain in 1936. By 1937, he had been promoted three times in three years to the rank of lieutenant general. Schniewind was at sea as captain of a cruiser when Hitler came to power, but in 1934 became Chief of Staff of the Fleet. In 1937, he was made Chief of the Navy Armament Office.

REICHSWEHR TO WEHRMACHT

Thus were the defendants situated during the early years of the Third Reich, when Germany's military power grew with such startling swiftness. In point of fact, the speed of rearmament was so bewildering largely because few people realized how completely the Reichswehr had prepared for rearmament under the Weimar Republic. Technologically, very little ground had been lost; Gustav Krupp has told us that:

"After the assumption of power by Hitler, I had the satisfaction of being able to report to the Fuehrer that Krupp's stood ready, after a short warming-up period, to begin the rearmament of the German people without any gaps of experience."

A secret history of artillery design states that, as a result of clandestine activities under the Weimar Republic,

"Of the guns which were being used in 1939-1941, the most important were already fully developed in 1933 * * *. For the equipment which was tested in secrecy, the Army Ordnance Office and the industry stood ready to take up mass production, upon order from the Fuehrer."

In this regard, the Fuehrer was not bashful. The Reich's military estimates for 1933, showed an extraordinary increase over prior years. Already by October 1933, a top secret document of the Army Ordnance Office listed 15 major projects, including the manufacture of 135 tanks, which were being carried out in violation of the Versailles Treaty. In this same month, Germany withdrew from the League of Nations and the International Disarmament Conference.

Hitler's effect on rearmament, in short, was like uncapping a gusher. In June 1934, the construction of submarines and heavy battleships was under way. Guns and tanks were beginning to pour from the Krupp and other arms factories. There is no need to fill in the detail now; much of this part of the story is contained

in the record¹ and judgment² of the first International Military Tribunal, and will be more fully set forth in the documents we will offer in this case.

In March 1934, the army started a program for the construction of 650 tanks, to be completed by March 1935. The second date is significant; in that same month Hitler publicly repudiated the Versailles Treaty. In the twinkling of an eye, the Reichswehr was history and the Wehrmacht a foreboding reality.

*“MILITARY FREEDOM” (WEHRFREIHEIT)—
REARMAMENT, SPAIN AND THE RHINELAND*

As a matter of fact, the Reichswehr had not fooled everyone; to those “in the know,” German rearmament had been an open secret for some time. But by 1935 matters had progressed so far that the mask of duplicity was becoming an embarrassment even to the most shameless. So in March 1935, the mask was thrown off; this event was called Germany’s “recovery of military freedom” (Wehrfreiheit). The sequence of events is thus set forth by the IMT:³

“On 10 March 1935, the defendant Goering announced that Germany was building a military air force. Six days later, on 16 March 1935, a law was passed * * * instituting compulsory military service and fixing the establishment of the German Army at a peacetime strength of 500,000 men. In an endeavor to reassure public opinion in other countries, the government announced on 21 May 1935, that Germany would, though renouncing the disarmament clauses still respect the territorial limitations of the Versailles Treaty, and would comply with the Locarno Pacts. Nevertheless, on the very day of this announcement, the secret Reich defense law was passed and its publication forbidden by Hitler. In this law, the powers and duties of the chancellor and other ministers were defined, should Germany become involved in war.”

These events resulted in important changes in the top organization of the Wehrmacht. In 1935, the Ministry of Defense was renamed the War Ministry (Reichskriegsministerium), Blomberg became Minister of War and Commander in Chief (Oberbefehlshaber) of the Wehrmacht. His immediate subordinates, von Fritsch and Raeder, became Commanders in Chief of the Army and Navy, respectively. Goering, who had been Minister for Aviation since 1933, now took the title of Commander in Chief of the Air Force; in his military capacity only, but not in his ministerial status, he was under von Blomberg.

¹ For example, see Trial of the Major War Criminals, vol. II, pp. 216-241, Nuremberg, 1947.

² *Ibid.*, vol. I, pp. 182-186.

³ *Ibid.*, vol. I, p. 184.

For Erich Raeder and his staff—now renamed the High Command of the Navy (Oberkommando der Kriegsmarine, or OKM)—the events of March and May 1935, were like a shot in the arm. The primary goal was re-creation of the German submarine fleet, and now the illegal submarine activities of past years paid enormous dividends. The secret history of the German Navy credited these early projects with having made possible the “astonishing facts” that,

“ * * * it was possible to put the first submarine into service only 3½ months after the restoration of military sovereignty, declared on 16 March 1935, that is on 29 June, and then at intervals of about 8 days to put new submarines continuously into service, so that on 1 October 1935, twelve submarines with fully trained personnel were in service.”

A program for the construction of battle cruisers and capital ships was also formulated and set under way. In 1937, the same year that the defendant Schniewind became Chief of Naval Armament, Germany entered into the Anglo-German Naval Treaty, under which both powers bound themselves to interchange full details of their building programs. But this was only a feint to gain time; as the IMT found, Germany had no intention of abiding by the naval agreements, and promptly and deliberately violated them.

The German Air Force—newly born in 1935—occupied a special position among the three services. The top staff of the air force (Oberkommando der Luftwaffe, or OKL) was part of Goering’s own Air Ministry, not part of the War Ministry. Goering recruited his staff from civilian aviation administrators such as Erhard Milch, famous pilots such as Udet, and by transfer to the air force of regular army officers such as Kesselring, Weber, and the defendant Sperrle.

The infant air force soon found opportunity to try its wings in actual combat. The Spanish Civil War broke out in July 1936, and in September, the defendant Warlimont arrived in Spain as Plenipotentiary Delegate of the Wehrmacht. Although diplomatic reasons underlay German aid to Franco, the Wehrmacht was especially interested in the opportunity it afforded to test German equipment and German battle tactics with new weapons. The army sent only a few troops, but substantial quantities of guns and ammunition. The navy played a relatively minor part, though the pocket battleship “Deutschland” and two light cruisers patrolled the Spanish coast. But the air force played a major role.

In November 1936, the defendant Sperrle arrived in Franco Spain at the head of the so-called, “Condor Legion,” which included a large number of bomber, fighter, and reconnaissance

squadrons and several anti-aircraft batteries. An article by the defendant Sperrle reveals the great value of the Spanish experience to the Luftwaffe in its subsequent aggressive campaigns, especially in Poland and France. In October 1937, Sperrle was relieved in Spain and given command of one of the three "air groups" into which the air force was divided.

Spectacular as were the achievements of the navy and the air force, the army's expansion was of greater importance. As in the case of the navy, the top staff was renamed the "Oberkommando des Heeres" (OKH). With the need for camouflage removed, the Troops Department now emerged as the General Staff of the Army.

The subdividing of Germany into seven military districts was abolished in 1935, and the three obsolete cavalry divisions dissolved. Germany was newly divided into thirteen military districts, each with a corps headquarters. Nuernberg was the center of military district XIII, and the building directly across the street from the Palace of Justice is the former headquarters of the XIII Army Corps. Subordinate to each corps were three (occasionally two) infantry divisions. In addition, there were three more corps headquarters, without territorial jurisdiction, controlling the motorized, light, and armored (Panzer) divisions respectively. Above the corps headquarters, the two old army groups were replaced by three territorial "army group" (Heeresgruppe) headquarters, commanded by the three most senior generals—von Rundstedt, von Bock, and the defendant von Leeb. A fourth nonterritorial army group under von Brauchitsch controlled the motorized, light, and armored divisions.

In March 1936, the last safeguard of the Versailles Treaty was swept away. A year earlier, a plan for the military reoccupation of the Rhineland had been prepared by the Ministry of War. On 7 March 1936, in open defiance of the treaty, the Demilitarized Zone of the Rhineland was entered by German troops. Once again, the secret rearmament activities of earlier years gave the German military leaders courage; the German Navy's secret history states:

"On 7 March 1936, during the critical moment of the occupation of the Demilitarized Zone on the Western border, eighteen submarines in service were available, seventeen of which had already passed the test period, and, in case of emergency, they could have been employed without difficulties on the French coast up to the Gironde."

In announcing this action to the Reichstag, Hitler endeavored to assuage the hostile reaction which he no doubt expected to follow from this violation of the treaty by saying: "We have no terri-

torial claims to make in Europe." But events which were to give the lie to this assurance were not far in the future. Between May 1935, and the end of 1937, the German Army more than quadrupled; by the time of the annexation of Austria, it comprised 32 infantry, 4 motorized, 4 armored, 3 light, and 1 mountain division, or 44 in all.

THE WEHRMACHT AND THE NAZIS

The impressive revival of the Wehrmacht's strength was achieved by Germany's military leaders with the full support of German industry, and, after January 1933, under the political leadership of Adolf Hitler and the Nazi Party. And before we describe the conquest of Poland and the other countries overrun by the Wehrmacht, we may well pause to examine briefly the development of relations between the Wehrmacht and the Nazis, for it was the alliance between Hitler and the Wehrmacht—an alliance which was established and preserved despite some points of difference and much ill will between the Nazi Party and the German Officers' Corps—that was the key stone of the arch of the Third Reich. As the defendant Reinecke put it in the notes for one of his lectures: "The two pillars of the Third Reich are the Party and the armed forces, and each is thrown back on the success or downfall of the other."

The basis for this alliance between Hitler and the Wehrmacht was not openly acknowledged during the early months of the Hitler regime. Indeed, when Blomberg took office in the Hitler-Papen cabinet, he attributed his selection to Hindenburg, not to Hitler, and, with a bow to von Seeckt, promised to preserve the Reichswehr as "an instrument of the State above all parties". But this promise rapidly became meaningless as German party politics succumbed to the rigor mortis of dictatorship. After the election of 5 March 1933, Hitler had numerous opposition members in the Reichstag put into what he called "protective custody", and then put through the Reichstag the Enabling Act of 24 March 1933, which gave his cabinet full legislative power, even above the constitution. A month later Goering established the Gestapo, and in July all parties other than the NSDAP were declared criminal. During the remainder of 1933, the vise of tyranny was tightened by the prostitution of the judiciary, strangling of the trade unions, and the subjection of the press to Goebbels and Dietrich. It had been all very well for von Seeckt to maintain a haughty superiority to "party politics" under the Weimar Republic, but by the latter part of 1933 there was no such thing left in Germany, and there was only one overriding and all-important political issue: whether to fight against the militaristic tyranny that was settling

over Germany, or to join with Hitler and the Nazis in establishing the dictatorship of the Third Reich. The leaders of the Wehrmacht gave their answer cautiously but, in the end, decisively.

Indeed, in some circles of the Wehrmacht, there was rather more enthusiasm than caution. In February 1933, Hitler's very first month as Chancellor, both Blomberg and Reichenau made public statements favorable to the Nazi cause,¹ and on 31 March 1933, Blomberg, speaking for the Wehrmacht, saluted Hitler as "the leader of the German destiny." Later the same year Hitler reciprocated these manifestations of good will. On 1 September 1933, the day of the annual Nazi Party rally at Nuernberg, Blomberg was promoted to the rank of a full general (Generaloberst), and the defendant Leeb was appointed Commander in Chief of Army Group 2.

But Blomberg and Reichenau had been specially favored by Hitler, and the latter was a well-known Nazi sympathizer. As yet, the old line conservative generals — such as the Commander in Chief, von Fritsch and the Chief of the General Staff, Lieutenant General Beck — had not taken a position. Hitler's support of rearmament was favorably received throughout the Wehrmacht, but there was trouble with some of Hitler's followers, notably the "Storm Troops" (Sturmabteilung, or "SA") under the leadership of the notorious Roehm. This, the so-called "radical wing" of the Nazi Party wanted to break the grip of the officers' corps by incorporating the SA into the Reichswehr. But this threat to the privileged status of the officers' corps was eliminated during the so-called "Roehm purge" in June 1934, when Roehm and his followers were murdered in an orgy of political assassination. This put the quietus on the military hopes of the SA, and was so welcome an event to the Wehrmacht that they were prepared to overlook the brutal murder during the "purge" of two of their own colleagues—Generals von Schleicher and von Bredow.

And so when Hindenburg died on 2 August 1934, and Hitler proclaimed himself Chief of State and Supreme Commander of the Armed Forces, Hitler had already won powerful support among the leading generals, and the remainder were by no means prepared to take a stand against him. That same day, on the orders of Blomberg, all members of the Wehrmacht took the following oath to Hitler (*NOKW-3132, Pros. Ex. 1419*):²

"I take this holy oath before God, that I will render unconditional obedience to the Fuehrer of the German Reich and of the German people, Adolf Hitler, and as a brave soldier will be prepared at any time to sacrifice my life for this oath."

¹ "Voelkischer Beobachter" of 6 and 10 February 1933.

² Document reproduced in section VI B 2.

But it was the repudiation of the arms limitations of the Versailles Treaty in May 1935 which finally sealed the bargain between Hitler and the military leaders. We have already traced their clandestine rearmament activities during the 15 years which preceded this event, and have seen with what unalloyed enthusiasm they welcomed open rearmament in the spring of 1935. And it was in the fall of 1935 that the old line generals threw off their previous reserve and spoke out enthusiastically and devotedly for the Fuehrer. The occasion was the 125th anniversary of the German War Academy, which had been founded by Scharnhorst in 1810, and which had closed in 1920 as required by the Versailles Treaty. On 15 October 1935, great ceremony attended the reopening of the academy. The Fuehrer himself was in attendance with Goebbels and Dietrich at his heels; the aged Field Marshal von Mackensen and General von Seeckt emerged from retirement; among the active military leaders in attendance were Blomberg, Fritsch, the Chief of the General Staff Beck, Goering and Milch from the air force, Rundstedt, Witzleben, and the commander of the War Academy, Lieutenant General Liebmann. The occasion was graced by speeches, not only by Blomberg, but also by Beck and Liebmann, both of whom were foremost and highly respected examples of the so-called "old school" among the German military leaders. Addressing the students of the academy, Beck reminded them "of the duty which they owe to the man who re-created the Wehrmacht and made it strong again, and who finally struck off the fetters of Versailles, and to the new State which assured us a foundation stronger than ever in a united nation". Addressing the Fuehrer on behalf of the officers' corps, General Liebmann declared (*NOKW-3129, Pros. Ex. 1432*):

"We know and we are convinced in our deepest being that we have solely your determined will and your infallible leadership to thank for our freedom and—like the German people—we and the entire German Armed Forces will show our thanks to you, our Fuehrer, through unflinching faithfulness and devotion."

There ensued a period which might be described as honeymoon between Hitler and the Wehrmacht. The military leaders were thoroughly occupied with the re-creation of Germany's military might and Hitler, for the most part, did not interfere with their activities. Hitler took the occasion of his own birthday (20 April) in 1936, to promote Blomberg to the highest military rank of field marshal, the first German field marshal appointed since the First World War; simultaneously, Fritsch and Goering were made full generals, and Raeder a "Generaladmiral". The attitude of the

German Officers' Corps towards Hitler during these years has been well summarized by the defendant Blaskowitz:

"The rearmament of Germany, at first (1933-35) secret and later unconcealed, was welcomed by me. All officers of the army shared this attitude and therefore had no reason to oppose Hitler. Hitler produced the results which all of us warmly desired."

In such happy collaboration with Hitler, the Officers' Corps proceeded to make the Wehrmacht once again mighty for war. Shortly before their creation was put to use, however, a serious crisis occurred. Most of us are too much inclined to think of Hitler's dictatorship as untroubled; in point of fact, Hitler was constantly encountering crises, some of which seriously threatened his political mastery. Early in 1938, the relations between Hitler and the army were gravely affected by what has become known as the "Blomberg-Fritsch affair". This episode resulted in important changes in the top organization of the Wehrmacht, and had other far reaching consequences.

THE BLOMBERG-FRITSCH CRISIS AND THE ESTABLISHMENT OF THE OKW

The principal actors in this drama were Hitler, Himmler, Goering and, within the army, Blomberg, Fritsch, Beck, Lieutenant General Wilhelm Keitel, who had succeeded Reichenau as Chief of the Armed Forces Department of the War Ministry, and several of the senior generals of the army, including Rundstedt, Reichenau, Brauchitsch, and the defendant Leeb.

The immediate cause of the crisis was that on 12 January 1938, having previously obtained Hitler's blessing, Field Marshal Blomberg, a widower, married a young lady whose lineage was not sufficiently aristocratic to meet with the approval of the German Officers' Corps. Hitler and Goering witnessed the ceremony, and all seemed serene, but very shortly thereafter rumors were circulated in high places attacking the lady's reputation. Criticism of the marriage within the Officers' Corps grew louder and louder. On the basis of these rumors, Hitler and Goering forced Blomberg to resign on 25 January 1938, and two days later the Blombergs left Germany for Italy on what was at the same time honeymoon and exile.

It is not altogether clear whether or not Hitler himself was anxious to get rid of Blomberg, who was primarily the victim of German military class-consciousness. But there is little doubt that Hitler, as well as Goering and Himmler, wanted to be rid of the Commander in Chief of the Army, General von Fritsch, whose ar-

rogant behavior had rubbed Hitler the wrong way, and who made no secret of his lack of respect for the military abilities of Goering and Himmler. Two days after Blomberg's dismissal, Hitler, in Goering's presence, summarily relieved Fritsch as Commander in Chief of the Army, using as a pretext an absolutely false and unspeakably malicious accusation that Fritsch had been guilty of unnatural sex offenses. Fritsch was held in house arrest pending investigation, and a few weeks later was completely exonerated by a military court martial, but in the meantime he had been replaced as Commander in Chief of the Army by von Brauchitsch, and Fritsch remained in retirement until the attack against Poland a year and a half later.

This preposterous and contemptible affair threw the army into an uproar, and had fantastic overtones. A fiery young naval lieutenant named von Wangenheim flew to Rome, sought out Blomberg, and offered him a pistol in order that his suicide might vindicate the honor of the Wehrmacht. The worldly field marshal handed back the pistol with the observation that Wangenheim "apparently had entirely different opinions and a different standard of life than he himself". But the effect of Fritsch's dismissal was fundamentally much more important, in as much as a large part of the Officers' Corps thoroughly approved Blomberg's dismissal, whereas everyone knew that Fritsch—the very model of a very German general and the idol of the Wehrmacht—had been most shamefully treated.

Furthermore, important issues underlay Fritsch's dismissal. The Officers' Corps had not forgotten Roehm and the SA, and now Himmler and the SS loomed as a menace to the army's military monopoly. Some of the leading generals, such as Leeb and von Kressenstein, were strong advocates of religious training for the troops, which did not fit the neo-paganism of the SS. Furthermore, Goering, capitalizing on the exploits of his air force in Spain, was demanding a larger voice in military affairs than von Fritsch was disposed to accord him. It was plain that the whole Fritsch-Blomberg affair was a frame-up, and that Goering and Himmler were back of it. This was a direct and sinister attack against the army leadership, for the purpose of subjecting it to domination by Hitler, Goering, Himmler, and other party bigwigs. The army's efforts to meet this challenge failed miserably; in this failure personal ambition, lack of solidarity, and moral instability all played a part.

Having dismissed Blomberg and Fritsch, Hitler was faced with the question of their replacement, and in solving this problem appears to have relied chiefly on Goering and a newcomer to the top level, Lieutenant General Wilhelm Keitel, who, as Chief of the Armed Forces Department, had been Blomberg's chief assistant in

the War Ministry since 1935, and whose son had married Blomberg's daughter. On 27 January, Hitler informed Keitel that he himself would take over personal command of the Wehrmacht, with Keitel as his chief assistant. The War Ministry and the title "Minister of War" were abolished. All this was accomplished by a Hitler decree on 4 February 1938. The Armed Forces Department of the War Ministry was taken over by Hitler as his personal military staff and designated "Supreme Command of the Armed Forces" (Oberkommando der Wehrmacht or OKW); the rest of the ministry passed out of existence. Keitel was given the title "Chief of the Supreme Command of the Armed Forces", and thereafter functioned more or less as Hitler's executive officer for armed forces matters.

Hitler did not immediately select a successor to Fritsch as Commander in Chief of the Army. The defendant Leeb and Rundstedt were the most senior generals, but Hitler at first leaned rather toward his old time favorite, Reichenau. Rundstedt or Leeb would have been acceptable to the Officers' Corps, but there was strong opposition to Reichenau. On 3 February 1938, Hitler finally decided to appoint Lieutenant General von Brauchitsch, at that time commander in chief of the army group for motorized and armored troops. Brauchitsch was held in high esteem among the leaders of the Officers' Corps, but several circumstances connected with his selection boded ill for the unity and independence of the army. Firstly, Brauchitsch allowed himself to be chosen as successor to a man who had been most shamefully and wrongfully dismissed. Secondly, Brauchitsch himself was suffering domestic complications, and permitted himself to undergo the indignity of having these carefully reviewed by Hermann Goering. Worse still, this very private problem was solved only with the assistance of Keitel and Goering, who were instrumental in persuading his wife to consent to a divorce, so that Brauchitsch could remarry. Thirdly, while Brauchitsch was given the rank of full general which Fritsch had held, Goering was to receive the rank of field marshal which Blomberg had held, and would thereby outrank the Commander in Chief of the Army. Finally, as a condition of his appointment, Brauchitsch was required to agree to a large number of important changes in the top leadership of the army. At first, Brauchitsch balked at this last condition, but on the afternoon of 2 February, in conference with Goering and Keitel, Brauchitsch gave way.

The result of all this was that the German newspapers for 6 February 1938, did not carry only the news of the creation of OKW, and of Goering and Brauchitsch's promotions; they also carried the news that the defendant Leeb had been relieved as Commander in Chief of Army Group 2 and retired, along with six

other high ranking generals, including such respected figures as von Kressenstein and von Kleist, and six air force generals. This third humiliation of the old line army leadership was part of the price which Brauchitsch paid for his personal advancement.

Indeed, the army's failure to cope more successfully with this crisis showed up its weaknesses all too clearly. von Fritsch himself, able soldier that he was, seems to have been preoccupied with the attack on his personal character, and to have taken no effective action against the more fundamental challenge to the army leadership. He realized well enough that Himmler was in back of it, but his unimaginative reaction was to send Himmler a written challenge to a pistol duel, and it is even doubtful that the challenge ever reached Himmler.

It is difficult to see how Hitler could have withstood a unanimous stand by the military leaders, but there was no unanimity. Many of them, such as Brauchitsch, Reichenau, Keitel, List, von Schobert, Guderian, von Manstein and others, were too ambitious to reject the promotions and new appointments which came to them in the course of the affair. A few weeks later, on 1 March 1938, the two most senior officers—von Rundstedt and von Bock—accepted promotion to the rank of full general. Even such men as Beck and Adam, who later resigned, seem to have been content for the moment to block Reichenau's candidacy as commander in chief and secure the promise of a court martial to clear von Fritsch's name.

In summary, the most significant lesson of the Blomberg-Fritsch affair is that the alliance between the Wehrmacht and Hitler was so strong that even this rude blow failed to shatter it. The Wehrmacht had seen the Nazis overthrow the Weimar Republic, establish a ruthless dictatorship, and throw their political opponents into concentration camps. They had seen their colleagues Schleicher and Bredow murdered, and now they saw Fritsch fall victim to a foul attack, and seven of their most respected leaders rudely pensioned off. But they also saw in Hitler the leader of a Party which had established a strong and seemingly permanent government, and which gladly furnished the funds for rearmament without the necessity of explaining and justifying everything to the Reichstag. They saw the factories of Germany humming and pouring out the armaments which they needed to reconstitute the Wehrmacht. They saw the man and the Party who had created political conditions favorable to the flowering of enormous military might. They had learned that Hitler, like themselves, had scant respect for the sanctity of treaties, and could be counted on to pursue a "realistic" foreign policy. They knew that, in Hitler's mind, all this rearmament was not aimless; they knew of and

shared Hitler's ultimate intention to put the Wehrmacht to use. All these things were more important to the Wehrmacht than the future career of Fritsch or the unpleasant habits of Himmler. Basically, the reason that the army did not take a firm stand behind Fritsch was that they did not want to take a decisive stand in opposition to Hitler. Whatever differences they had with Hitler were largely on questions of method and timing; there were no fundamental differences of purpose.

In the eyes of the German people and among the troops, the army's prestige was saved by Hitler's announcement that Blomberg and Fritsch had retired voluntarily for reasons of health, and by highly complimentary letters from the Fuehrer to each of them. Bitter feelings caused by the affair lingered on in some circles of the Officers' Corps, but the fundamental basis for the Wehrmacht's participation in and support of the Third Reich was not seriously shaken. And the alliance between the Wehrmacht and Hitler was to survive other serious tests in the fateful years 1938 and 1939.

COUNTS ONE AND FOUR—FLOWER WARS (BLUMENKRIEGE) AUSTRIA AND CZECHOSLOVAKIA (1938—1939)

MR. NIEDERMAN: One reason that the unpleasant memory of the fate of Blomberg and Fritsch faded so rapidly was that the army immediately became preoccupied with far weightier matters. At least as early as 5 November 1937, at a meeting with Blomberg, Fritsch, Goering, Raeder, and Foreign Minister von Neurath, Hitler had announced his intention to conquer Austria and Czechoslovakia at the first suitable opportunity. At this secret meeting, Hitler stated:*

“It is not a case of conquering people, but of conquering agriculturally useful space. It would also be more to the purpose to seek raw material producing territory in Europe directly adjoining the Reich and not overseas, and this solution would have to be brought into effect for one or two generations * * *. The history of all times—Roman Empire, British Empire—has proved that every space expansion can only be effected by breaking resistance and taking risks. Even setbacks are unavoidable: neither formerly nor today has space been found without an owner; the attacker always comes up against the proprietor * * *. The question for Germany is where the greatest possible conquest could be made at the lowest cost * * * .

* See Trial of the Major War Criminals, *op. cit. supra.*, vol. I, p. 190.

The German question can be solved only by way of force, and this is never without risk * * * .”

The intention to seize Austria and Czechoslovakia was made clear in the following words:¹

“For the improvement of our military-political position, it must be our first aim in every case of entanglement by war to conquer Czechoslovakia and Austria simultaneously, in order to remove any threat from the flanks in case of a possible advance westwards * * * . The annexation of the two states to Germany militarily and politically would constitute a considerable relief, owing to shorter and better frontiers, the freeing of fighting personnel for other purposes, and the possibility of reconstituting new armies up to a strength of about twelve divisions.”

These intentions were, of course, in flagrant violation of Hitler's announcements in 1935 and 1936 that he had no intention of attacking Austria or Czechoslovakia, and of the agreement of July 1936 between Germany and Austria under which Hitler recognized “the full sovereignty of the federal state of Austria”. Nonetheless, on 13 December 1937, Hitler approved a report concerning the military execution of the intentions outlined by him at the conference in November.

AUSTRIA

Throughout 1937, agents of the German Foreign Office had been undermining the Austrian Government and directing the activities of the outlawed Austrian Nazi Party. On 12 February 1938, Schuschnigg, the Chancellor of Austria, was peremptorily summoned to meet with Hitler at the Obersalzberg. When Schuschnigg arrived at the Berghof, he found Hitler flanked by the military, including the defendant Sperrle, and Keitel and Reichenau. In a diary kept by General Alfred Jodl, one of the defendants convicted by the IMT, who throughout much of this period was chief of operations under Keitel, the entry for 11 February states (1780-PS, *Pros. Ex. 1034*):

“In the evening, and on 12 February, General Keitel, with General von Reichenau and Sperrle at Obersalzberg.

“Schuschnigg with G. Schmidt are being put under heaviest political and military pressure. At 23 hours Schuschnigg signs minutes.”

A speech delivered in March 1942 by a high-ranking Austrian Nazi, Gauleiter Dr. Rainer, gives a fuller account of the nature of this meeting (4005-PS, *Pros. Ex. 1370*):²

¹ *Ibid.*, p. 131.

² See also *Nazi Conspiracy and Aggression*, vol. Supp. A, pp. 699-700, U.S. Government Printing Office, Washington, 1946.

“The Fuehrer did not conduct the negotiations as Schuschnigg expected * * *. The Fuehrer * * * shouted at him and reproached him for all the dirty tricks Schuschnigg had committed during the years past * * *. Ribbentrop told me he really pitied Schuschnigg * * *. Schuschnigg tried to object to something, but got so terribly shouted at that he fell back into silence. Then the meal was taken.”

Now the defendant Sperrle will no doubt tell the Tribunal, as he has already so candidly informed the prosecution, that he had no notion what he was doing at the Berghof, and that the extent of his activity in this extortion was limited to a friendly cup of tea. Sperrle had, only a few months prior to the Obersalzberg meeting, returned from Spain, where the bombers of his Condor Legion were being tried out with deadly success in support of the Franco forces. It is considerably less than likely that Hitler summoned this man to the Berghof for the purpose of partaking of tea. Rainer's speech puts the matter beyond all doubt (*4005-PS, Pros. Ex. 1370*):*

“* * * the Fuehrer called Sperrle who had just relinquished the command in Spain. The Fuehrer asked him to speak about the air force.

“Schuschnigg was given a very impressive picture of the German Army. Keitel, too, was present.”

After Schuschnigg left the Obersalzberg, military pressure against Austria was maintained by sham military activities near the Austrian border, organized by Sperrle and several army generals, and a few days later Schuschnigg granted amnesty to a number of Austrian Nazis. A month later, on 12 March, German troops occupied Austria, and the following day Austria was annexed to Germany.

The defendants will no doubt emphasize that they had no advance knowledge of the occupation of Austria. This is totally irrelevant, since Hitler himself knew of his own intention less than 48 hours in advance. The occupation was not carefully planned in advance, but was precipitated unexpectedly. On 9 March, Schuschnigg had announced his intention of holding a plebiscite on the question of Austrian independence. Hitler decided to act at once, and on 10 March, in a flurry of extemporized military preparations, the nearby troops were mobilized, and Sperrle assembled a miscellaneous assortment of combat and transport planes at airports in Bavaria. Backed by these forces, Hitler's agent Keppler presented an ultimatum to the President of Austria, Miklas, and informed him that 200,000 German soldiers were at

* *Ibid.*, p. 700.

the Austrian border ready for invasion. Faced with these threats, the Austrian Government succumbed on 11 March, and the next morning the Wehrmacht rolled into Austria. This was the first of the so-called "flower wars", so called because, according to Nazi propaganda, the German troops were greeted with flowers instead of bullets.

THE SUDETENLAND

That Austria succumbed to threats without the actual use of military force must not obscure the fact that her annexation was accomplished by military conquest. The Wehrmacht had made it possible. And the role of the Wehrmacht was even more decisive in the case of Czechoslovakia. Following the usual Nazi diplomatic pattern, categorical assurances were given by Germany to the Czech Government at the time of the "Anschluss". But two months later, at a military conference in May 1938, Hitler ordered the preparation of plans for military action against Czechoslovakia not later than October 1938. Two days later, Hitler issued a revised directive which began with the statement: "It is my unalterable decision to smash Czechoslovakia by military action in the near future."

Pursuant to this directive, plans for the attack were developed which envisaged the formation and employment in the attack of several "armies"—a unit which did not exist in the peace-time structure of the German Army but was the standard large unit for war operations. Despite his curt dismissal at the time of the Blomberg-Fritsch affair, the defendant Leeb emerged from retirement to take command of the 12th Army; the 3d Army was commanded by Kuechler, with Hollidt as his Chief of Staff, and Saluth was Chief of Staff of the 2d Army. Sperrle developed plans for the employment of Air Group 3 in the attack.

The plan for the attack on Czechoslovakia led to another crisis between Hitler and some of the senior generals. It was not that there was any disagreement with the objective of conquest of Czechoslovakia or any doubt about the ability of the German Army to do this; once again, it was entirely a question of timing. A number of generals were firmly convinced that, if Germany should attack Czechoslovakia, France and England would honor their guarantee to Czechoslovakia and would attack Germany in the West. Germany's western fortifications were by no means completed, and while the growth of the Wehrmacht had been phenomenal, it had not yet nearly approached its peak. The leaders of the Wehrmacht did not want to see the fruits of their labor, as yet unripe, spoiled by being plucked too early. Brauchitsch, Beck, Adam, and others presented these views to Hitler, but

were met with the rejoinder that France and England would not intervene in a war between Germany and Czechoslovakia.

This conflict in points of view never reached a showdown, as the immediate crisis was resolved through the conclusion of the Munich Pact, under which Czechoslovakia was required to cede the Sudetenland to Germany. German occupation of the Sudetenland was carried out in part by troops under the command of the defendants mentioned above.

BOHEMIA, MORAVIA, AND SLOVAKIA

In the case of Austria and the Sudetenland, Hitler had made great diplomatic capital out of the fact that the inhabitants of the areas forcibly annexed by Germany were of Germanic origin. Two days before the Munich Pact was signed, Hitler, in a public speech carefully calculated to induce the Western powers to appease Germany once more, described the Sudetenland as "the last territorial claim which I have to make in Europe". Hitler continued:

"I assured (Mr. Chamberlain), moreover, and I repeat it here, that when this problem is solved, there will be no more territorial problems for Germany in Europe.

"And I further assured him that from the moment when Czechoslovakia solves its problems, that is to say, when the Czechs have come to an agreement with their other minorities, peacefully, without oppression, I shall no longer be interested in the Czech State. And that is guaranteed him. We don't want any Czechs at all."

But the stress which Hitler laid on the "Germanic" character of Austria and the Sudetenland was just as spurious and insincere as his declaration that Germany had no more territorial claims. The defendants knew that Hitler never intended to honor these promises. As early as 11 October, he asked the generals what additional forces would be necessary to break Czech resistance in Bohemia and Moravia. In December 1938, a directive was prepared under the defendant Warlimont's supervision in the OKW which was later initialed by the defendant Schniewind, and which stated:

"Reference 'Liquidation of the Rest of Czechoslovakia', the Fuehrer has given the following additional order:

"The preparations for this eventuality are to continue on the assumption that no resistance worth mentioning is to be expected.

"To the outside world, too, it must clearly appear that it is merely an action of pacification, and not a warlike undertaking."

In the meantime, the hatchet men of the German Foreign Office were busily fomenting separatist sentiment in Slovakia. By March 1939, Hitler was ready to strike again. Under strong pressure from Hitler, Slovakia declared herself independent, and at the same time the President of Czechoslovakia, Hacha, was summoned to Berlin, and, in the presence of Goering and Keitel, was threatened with immediate invasion and the destruction of Prague from the air by the planes of Sperrle's air fleet. Under this terrible threat, Hacha agreed to the incorporation of Bohemia and Moravia into the Reich as a protectorate; the following day, German troops under the command of the defendant Blaskowitz marched in, and Sperrle's air forces took over the Czech airfields. This was the last of the "flower wars", but we do not believe that Blaskowitz will tell us that there were many flowers thrown as he marched into Prague.

COUNTS ONE AND FOUR—THE CONQUEST OF EUROPE (1939-1942)

Immediately after the Munich settlement, the Wehrmacht was already looking ahead to the conquest of Poland, and the establishment of an "independent" Slovakia in March 1939, was a calculated step in that direction. The Wehrmacht had advised the Foreign Office in October 1938, that "a weak and independent Slovakia would be the best solution," in order to, "avoid the creation of a common frontier between Poland and Hungary," which the Wehrmacht thought "undesirable." Why it was thought "undesirable" became abundantly clear on 1 September 1939, when the German Fourteenth Army invaded southern Poland from Slovakia.

THE WEHRMACHT ON THE EVE OF WAR

No such disagreements between Hitler and the generals preceded the attack on Poland as had accompanied the Munich crisis. The Wehrmacht had been greatly strengthened during the intervening year. The submarine fleet under Admiral Doenitz was larger, and the air force was very much larger; a fourth air fleet based in Vienna had been added after the conquests of Austria and Czechoslovakia.

The army had made great strides. Two new corps headquarters in Austria and seven new divisions had already been set up by the end of 1938, as a result of the Austrian-Sudeten annexations. By September 1939, the German Army comprised at least 75

divisions and was still growing very rapidly.* In relation to the armies of neighboring countries, of course, the German Army's expansion was even more formidable, as the substantial and well-trained Czechoslovakian Army had been disbanded without the firing of a single shot.

As we approach the outbreak of war, we may profitably fit the defendants into place once more; all of them have risen in the military hierarchy since our last recapitulation. During the Second World War, the German Army conducted three major campaigns: the campaign of September 1939, against Poland, with a holding action in the West; the conquest of France and the Low Countries in the spring of 1940; and the overrunning of western Russia in 1941. It is, perhaps, not generally realized that all three campaigns were conducted by very much the same set of army group and army commanders. Indeed, the army group commanders were identical in all three campaigns. Three army groups led the German troops in each of these campaigns, and the three commanders in chief of these army groups were the three most senior generals of the German Army—the defendant von Leeb, and von Rundstedt, and von Bock.

POLAND

For the opening campaign, Leeb's role, though defensive, was vitally important. He was given command of all the German forces in the West, with the mission of holding any attack which the French and British might launch. His headquarters was called "Army Group C", and under him were two armies—the First and Seventh—facing France and the Maginot Line, and a third and weaker army—the Fifth—to the north on the Belgian and Dutch frontiers. The defendant Hollidt, by then a brigadier general, was Chief of Staff of the Fifth Army. The bulk of the air forces supporting Leeb in the West were those of Air Fleet 3, commanded by the defendant Sperrle.

The invasion of Poland was accomplished by two army groups—Army Group North under Bock, and Army Group South under Rundstedt. The latter had retired from active service in November 1938, but was recalled to active duty in June 1939, to prepare for the campaign. Under him were three armies. The Fourteenth Army, commanded by List, was deployed in the so-called "independent" state of Slovakia; the defendant Woehler, by then a colonel, was List's operations officer. Well to the north, in Silesia, was the Eighth Army under the defendant Blaskowitz. Between the two was the heavily armored and motorized Tenth Army, un-

* Testimony of General Jodl before the International Military Tribunal. See Trial of the Major War Criminals, *op. cit. supra.*, vol. XV, p. 351.

der Reichenau, which was to push into Poland as rapidly as possible while the armies of List and Blaskowitz protected its flanks. The defendant Hoth, then a lieutenant general, was a corps commander under Reichenau, and Reinhardt, a major general, commanded an armored division.

Bock's northern army group, with the defendant Salmuth, a major general, as Chief of Staff, comprised two armies. The Fourth Army, under von Kluge, was to push eastward from Pomerania into the Polish Corridor. The Third Army, under the defendant Lieutenant General von Kuechler, was stationed in East Prussia. The Third and Fourth Armies were supposed to act as a pincers, and trap as much as possible of the Polish Army between them in the Corridor.

In November 1938, the defendant Schniewind was appointed Chief of Staff of the Naval War Staff, a position roughly comparable to that of Chief of the General Staff of the Army. In 1939, he became a vice admiral. At the outbreak of war the navy had two principal missions. Naval surface craft participated in the reduction of the Polish port of Gdynia on the Baltic Sea, and German submarine warfare in the Atlantic began immediately upon the outbreak of war.

In the OKW the defendants Reinecke, Warlimont, and Lehmann all held important positions by the time the war broke out. Lehmann, still a civilian, had been Chief of the Legal Department since 1938. Warlimont, a colonel, was Chief of the National Defense Section which was the section chiefly concerned with military plans within the Armed Forces Operations Staff (Wehrmacht Fuehrungsstab, or "WFSt"), of which Jodl was Chief. Reinecke, a brigadier general, was Chief of the General Office (Allgemeines Wehrmachtamt—"AWA") with a general supervision over prisoner of war affairs, as well as over most of the OKW's fiscal and administrative work.

Although the plan to invade Poland did not take concrete form until 1939, the return of the Free City of Danzig to the Fatherland had long been contemplated. Two months after the signing of the Munich Pact and the public statement by Hitler that there were no more territorial problems for Germany in Europe, an OKW directive, emanating from Warlimont's section, ordered that "preparations are also to be made to enable the Free City of Danzig to be occupied by German troops by surprise." In December 1938, Brauchitsch sent instructions to Kuechler in East Prussia to prepare for the surprise occupation of Danzig. The defendant Schniewind also received these directives.

After the conquest of Czechoslovakia, German pressure against Poland developed rapidly. In March 1939, Hitler instructed Brauch-

itsch that the military aspects of the Polish question should be studied. He added (*R-100, Pros. Ex. 1077*):¹

“A solution in the near future would have to be based on especially favorable political conditions. In that case Poland shall be knocked out so completely that it need not be taken into account as a political factor for the next decade.”

Thereafter, military preparations were in the hands of the Wehrmacht. On 3 April 1939, Keitel issued a new directive to the Commanders in Chief of the Army, Navy, and Air Force concerning, “Case White” (“Fall Weiss”, the code name for the invasion of Poland) which stated (*C-120, Pros. Ex. 1079*):²

“The Fuehrer has added the following directions to Case White:

“1. Preparations must be made in such a way that the operation can be carried out at any time from 1 September 1939 onwards.

“2. The High Command of the Armed Forces has been directed to draw up a precise timetable for synchronized timings between the three branches of the armed forces.”

Warlimont assisted in drafting this directive and was active in the high-level planning of this and all subsequent aggressions. The initials of the defendant Schniewind appear on the copy of the directive received by the navy.

On 23 May, Hitler held an important military conference with the Chiefs of the Wehrmacht and their staffs to present his views on the future tasks of the armed forces. In addition to Goering, Raeder, Brauchitsch, Milch, and others, the defendants Schniewind and Warlimont were present. There Hitler laid bare the criminal conspiracy against the peace of the world in words which no man could fail to understand (*L-79, Pros. Ex. 1083*):³

“A mass of 80 million people has solved the ideological problems. So, too, must the economic problems be solved * * *. This is impossible without invasion of foreign states or attacks upon foreign property * * *.

“The national-political unity of the Germans has been achieved, apart from minor exceptions. Further successes cannot be attained without the shedding of blood * * *.

“Danzig is not the subject of the dispute at all. It is a question of expanding our living space in the East and of securing our food supplies, of the settlement of the Baltic problem. Food supplies can be expected only from thinly populated areas. Over and above the natural fertility, thoroughgoing German exploita-

¹ Document reproduced below in section VI D 1.

² *Ibid.*

³ *Ibid.*

tion will enormously increase the surplus * * * .

“There is therefore no question of sparing Poland, and we are left with the decision: To attack Poland at the first suitable opportunity. We cannot expect a repetition of the Czech affair. There will be war. Our task is to isolate Poland. The success of the isolation will be decisive.”

Here then was a naked statement of Hitler’s determination to wage aggressive war; it was made directly to his military leaders. This criminal plan could not have been carried out without their wholehearted cooperation.

The target day for the attack was 1 September 1939. In the intervening months, military preparations for “Case White,” proceeded apace. The over-all operational planning was developed by Rundstedt, with von Manstein as his Chief of Staff. On 28 April [1939], Schniewind wrote to the navy commander in the East concerning the occupation of Danzig, advising the latter to consult with Kuechler, commander of the 3d Army in East Prussia. On 14 June, Blaskowitz issued a detailed battle plan for Case White to his subordinate units, stating in part that (2327-PS, *Pros. Ex. 1086*):

“The operation, in order to forestall an orderly Polish mobilization and concentration, is to be opened by surprise with forces which are for the most part armored and motorized, placed on alert in the neighborhood of the border. The initial superiority over the Polish frontier guards, and the surprise that can be expected with certainty, are to be maintained by quickly bringing up other parts of the army as well to counteract the marching up of the Polish Army.

“Accordingly all units have to keep the initiative against the foe by quick acting and ruthless attacks.”

Again on 15 June, Brauchitsch issued orders to Blaskowitz and Kuechler, among others, stating that the object of Case White was “to destroy the Polish Armed Forces”, and that, “high policy demands that the war should be begun by heavy surprise blows.” (NOKW-229, *Pros. Ex. 1087*.)^{*} Numerous planning and operational conferences took place throughout the summer of 1939. All the defendants (except von Roques, who had not yet returned to active service) participated significantly in planning and initiating the war; with the Polish campaign itself, the defendants Kuechler, Blaskowitz, Hoth, Reinhardt, von Salmuth, Schniewind, Warlimont, and Woehler were most directly concerned.

There is no evidence that any substantial number of Germany’s military leaders felt any qualms or compunction about the ruth-

^{*} *Ibid.*

less and aggressive attack which they were planning. If any were hesitant, they were in a decided minority. With the western fortifications strengthened, the Czech Army eliminated, and the Wehrmacht itself burgeoning like tropical vegetation, the whole spirit of the Officers' Corps was far more bellicose than the previous year. Furthermore, recovery of the territory lost to Poland after the First World War had been a cardinal objective of the German Officers' Corps for many years. Once again, the defendant Blaskowitz has summarized their viewpoint:*

“From 1919, and particularly from 1924, three critical territorial questions occupied attention in Germany. These were the questions of the Polish Corridor, the Saar and Ruhr, and Memel.

“I myself, as well as the whole group of German staff and front officers, believed that these three questions, outstanding among which was the question of the Polish Corridor, would have to be settled some day, if necessary by force of arms. About ninety percent of the German people were of the same mind as the officers on the Polish question. A war to wipe out the political and economic loss resulting from the creation of the Polish Corridor, and to lessen the threat to separated East Prussia surrounded by Poland and Lithuania, was regarded as a sacred duty though a sad necessity * * * .”

“After the annexation of Czechoslovakia we hoped that the Polish question would be settled in a peaceful fashion through diplomatic means, since we believed that this time France and England would come to the assistance of their ally. As a matter of fact, we felt that, if political negotiations came to naught, the Polish question would unavoidably lead to war, that is, not only with Poland herself, but also with the Western powers.

“When, in the middle of June, I received an order from the OKH to prepare myself for an attack on Poland, I knew this war came even closer to the realm of possibility. This conclusion was only strengthened by the Fuehrer's speech on 22 August 1939, on the Obersalzberg when it clearly seemed to be an actuality * * * .”

At the meeting on the Obersalzberg, to which Blaskowitz refers, Hitler reiterated his inflexible decision to crush Poland even at the risk of war with England and France. This conference was attended by all the commanders and their chiefs of staff down to army level, and their equivalents in the navy and air force, including the defendants Leeb, Blaskowitz, Kuechler, Sperrle, Schniewind, Warlimont, and Salmuth. Hitler began by stating: “It was clear to me that a conflict with Poland had to come sooner or later. I had already made this decision in the spring.” He went

* Trial of the Major War Criminals, *op. cit. supra.*, vol. IV, pp. 413-415.

on to recapitulate the reasons which seemed to him to dictate the advisability of an immediate war against Poland rather than its postponement; his own political ability was stressed as the first consideration, and the loyalty of Mussolini as the second. Hitler went on: "The third factor favorable for us is Franco. We can ask only benevolent neutrality from Spain, but this depends on Franco's personality." This "benevolent neutrality" was, of course, what Hitler had counted on achieving by German intervention in support of Franco during the Spanish Civil War.

After reviewing other factors which he considered to favor an immediate attack, Hitler said:

"The enemy had another hope, that Russia would become our enemy after the conquest of Poland. The enemy did not count on my great power of resolution. Our enemies are little worms. I saw them in Munich.

"I was convinced that Stalin would never accept the English offer. Russia has no interest in maintaining Poland * * *. I brought about the change toward Russia gradually. In connection with the commercial treaty we got into political conversation. Proposal of a nonaggression pact. Then came a general proposal from Russia. Four days ago I took a special step, which brought it about that Russia answered yesterday that she is ready to sign. The personal contact with Stalin is established. The day after tomorrow von Ribbentrop will conclude the treaty. Now Poland is in the position in which I wanted her."

This was indeed music to the generals' ears. Always pursued by the fear of a two-front war, which had proved so disastrous 20 years earlier, the news that Russia would remain neutral quieted their last misgivings. Furthermore, the German Officers' Corps had always deprecated Hitler's violent language against the Soviet Union. As a document signed by the defendant Warlimont and four other leading German generals states:

"Good relations with Russia * * * were valued very highly in the army which had many points of close contact with the Red Army. It was considered a disappointment, therefore, that the government evidently had not been in a position to fight the battle against communism at home in such a way that friendly relations with Russia might, nevertheless, be maintained—as had been the case in the years following the Rapallo Treaty. The violent language against Russia in Hitler's and Goebbels' speeches was by no means approved."

Two days after the meeting on the Obersalzberg, England entered into an agreement of mutual assistance with Poland which embodied informal assurances previously given. This, together

with Italy's unwillingness to embark on war, caused Hitler to hesitate momentarily, but as soon as he realized that England and France would not consent to the destruction of a third European country by Germany, he issued "Directive No. 1 for the Conduct of the War," previously prepared in Warlimont's office, and on 1 September, the Wehrmacht unleashed the Second World War by invading Poland, thus also precipitating war with England and France. The defendants and their coparticipants and Hitler were all in agreement; as Hitler had said on the Obersalzberg: "In starting and making a war, not the right is what matters, but victory."

OFFENSIVE IN THE WEST

MR. RAPP: Poland was overrun and conquered within a few weeks, and thereafter the Wehrmacht found itself in a very favorable military situation. The Soviet Union was neutralized by diplomatic agreement, and the Polish Army was no more. The Wehrmacht had suffered only insignificant losses during the Polish campaign, and these were more than compensated by the valuable experience which had been gained among both the leaders and the rank and file. Furthermore, the Wehrmacht was still growing; the peak of Germany's military effort had by no means been reached.

But if Hitler had hoped that the Western powers would sue for peace, he was disappointed, and the question arose, "What to do next?" The bulk of the army was rapidly moved to the western front, leaving only a few troops in Poland to cover the eastern front and perform occupational duties. For the second time in 25 years the German Army faced the French across the Rhine, and the hapless Low Countries lay athwart the German line of advance in Northern France. And in this situation, the Army High Command and the Fuehrer once again fell into disagreement.

Hitler wanted to strike in the West at once. On 9 October, he circulated a memorandum to Keitel, Brauchitsch, Goering, and Raeder stressing that Germany's war aim, "is and remains the destruction of our Western enemies," and pointing out that "the successes of the Polish campaign have made possible * * * a war on a single front, awaited for past decades. * * *"

But the generals thought otherwise. Now that they were at grips with France and England, they wanted to mobilize greater strength before attacking the Western powers, and preferred to spend the winter training the newly recruited divisions and testing their battle plans in war games. Opposition to Hitler's demand for an immediate showdown was absolutely unanimous; even the ambitious and impulsive Reichenau, loyal Nazi that he was, wanted to wait until spring. Jodl's diary describes a conference

on 25 October 1939, attended by Hitler, Brauchitsch, Halder (who had replaced Beck as Chief of Staff of the Army General Staff in November 1938), von Bock, Kluge, and Reichenau:

"Reichenau emphasizes bad weather; we gain better training during winter time; we must be able to draw out operations over the winter.

"Fuehrer says yes, but the enemy gains strength, and one winter night England and France will be on the Maas without firing a shot and without our knowing about it.

"Reichenau says, I prefer that.

"Bock: We still lack a great deal of replacement material."

In a determined effort to swing the generals around to his opinion, Hitler called another meeting of all commanders in chief and chiefs of staff at the Obersalzberg on 23 November 1939, and delivered a harangue (789-PS, *Pros. Ex. 1153*):*

"If the Polish war was won so quickly, it was due to the superiority of our armed forces * * *. Now the eastern front is held by only a few divisions. It is a situation which we viewed previously as unattainable * * *. Everything is determined by the fact that the moment is favorable now; in six months it might not be so any more * * *. My decision is unchangeable. I shall attack France and England at the most favorable and quickest moment."

But the generals were totally unconvinced. In a fury, Hitler announced that he would proceed anyhow, and set 9 December as a tentative date for the attack. But, for one reason or another, the attack was postponed, time after time, for 5 months, and did not take place until May 1940.

Norway and Denmark

While the generals and Hitler were squabbling, the master minds of the German Navy were not idle. In September 1939, a German admiral named Carls pointed out to the Commander in Chief of the Navy Raeder, the advantages which the navy would derive from an occupation of the Norwegian coast. His interest aroused, early in October, Raeder addressed a questionnaire to the Naval War Staff, of which the defendant Schniewind was Chief of Staff, directing that the following points be studied:

"(a) What places in Norway can be considered as bases?

"(b) Can bases be gained by military force against Norway's will, if it is impossible to carry this out without fighting?

"(c) What are possibilities of defense after the occupation?

* * * * *

* Document reproduced below in section VI D 1.

“(e) What decisive advantages would exist for the conduct of the war at sea in gaining bases in North Denmark, for instance Skagen?”

A week later, Raeder brought the matter up with Hitler, who agreed, “to give the matter consideration.” Early in December 1939, the Norwegian traitors Quisling and Hagelin came to Germany and conferred with Hitler, Raeder, and Alfred Rosenberg. During the ensuing months Schniewind maintained contact with Hagelin, and information so received was passed on by Schniewind to Warlimont in the OKW.

In January 1940, Hitler finally decided to adopt the navy’s proposal for a military occupation of Denmark and Norway. The project was given the code name “Weser Exercise”; its over-all preparation was entrusted to the OKW, and the naval planning to OKM. The basic OKW order, prepared under Warlimont, was issued on 27 January 1940. Schniewind and Warlimont both played leading roles; Jodl’s diary entry for 29 February 1940, states (1809-PS, *Pros. Ex. 1170A*):¹

“29 February—Fuehrer also wishes to have a strong task force in Copenhagen and a plan, elaborated in detail, showing how individual coastal batteries are to be captured by shock troops. Warlimont, chief Landesverteidigung, instructed to make out immediately the order of the army, navy, and air force, and director of armed forces to make out a similar order regarding the strengthening of the staff.”

On 1 March 1940, Warlimont prepared and issued a Hitler order for the completion of preparations. General von Falkenhorst was placed in charge of the combined unit which was to carry out the operation. At the same time a Naval Working Staff was formed under Schniewind, and on 12 March 1940, Schniewind issued orders concerning alternate landing locations for the invasion of Norway in the event the first locations should prove unusable. On 3 April 1940, the OKW forwarded a letter to Foreign Minister Ribbentrop’s office, prepared and initialed by the defendant Warlimont, which requested the cooperation of the Foreign Office with the various military commanders who were to be appointed in Denmark and Norway, and stated (*D-629, Pros. Ex. 1126*):²

“The military occupation of Denmark and Norway has been, by command of the Fuehrer, long in preparation by the High Command of the Armed Forces. The High Command of the Armed Forces has therefore had ample time to occupy itself with all the questions connected with the carrying out of this operation.”

¹ Document reproduced below in section VI D 2a.

² *Ibid.*

The invasion of Denmark and Norway had, of course, been preceded by the usual Judas' kiss of treaties and assurances. In May 1939, Germany and Denmark had signed a nonaggression pact. In April and September 1939, Germany had solemnly promised, "to respect the territory of the Norwegian State." Norway had not been at war with any nation for 126 years, and Denmark's peace had been undisturbed since Germany had last attacked her in 1864. None of the defendants—least of all Schniewind and Warlimont—can have failed to realize the aggressive and treacherous character of Germany's invasion of Denmark and Norway on 9 April 1940.

The Low Countries and France

Throughout the winter of 1939–1940, the major German attack in the West was repeatedly scheduled and postponed. The reasons for the postponement were various. The plans called for a weather forecast of five or six days' clear weather, and the forecast was never quite favorable enough. In January 1940, a German airplane, carrying important documents relating to the attack, made a forced landing in Belgium. There was disagreement within the army high command as to whether to follow the classic "Schlieffen" Plan, which had been used in the First World War, or whether to adopt new tactics. All these factors played a part in the delay, but it may well be doubted whether Hitler really wanted to override the unanimous judgment of the generals and take sole responsibility for a premature attack; at all events, the attack was not finally mounted until 10 May 1940.

Whatever may have been the differences between Hitler and the generals as to timing, they were completely agreed that the Low Countries should be overrun as part of the over-all plan of campaign. Existing treaties and guarantees meant nothing. The independence of Belgium rested upon international guarantees which had never been broken save by Germany herself in 1914. During the Weimar Republic, Germany had entered into arbitration treaties with all the Low Countries, and between 1937 and 1939, the Third Reich had given assurances to those countries at least eleven times. The German generals had some cause to recollect the unfavorable effect on world opinion which Germany's breach of Belgium neutrality had caused in 1914, but they had learned nothing. All their plans for a campaign in the West were based on the invasion and occupation of the Low Countries, in violation of treaties and agreements. And they were in no doubt as to Hitler's point of view. On 23 May 1939, at the conference attended

by Schniewind and Warlimont when Hitler announced his intention to attack Poland, Hitler said (*L-79, Pros. Ex. 1083*):*

“Dutch and Belgian airbases must be occupied * * *. Declaration of neutrality must be ignored * * *. Therefore, if England intends to intervene in the Polish war, we must occupy Holland with lightning speed * * *. Considerations of right and wrong, or treaties, do not enter into the matter * * *. If Holland and Belgium are successfully occupied and held, and if France is also divided, the fundamental conditions for a successful war against England will have been secured.”

German reassurances to Belgium and the Netherlands were reaffirmed on 6 October, at the conclusion of the Polish campaign. But, the very next day, Brauchitsch ordered von Bock to take command of an army group and to prepare for the immediate invasion of Dutch and Belgian territory; copies of this order were received by the defendants Leeb and Salmuth, among others. And finally, during Hitler's speech on 23 November 1939, on the Obersalzberg, when he endeavored to persuade the generals to attack immediately in the West, he said:

“I shall attack France and England at the most favorable and quickest moment. Breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won. The arguments we will choose for that breach of neutrality shall not be as idiotic as they were in 1914.”

In deploying the German forces for the attack in the West, Leeb's Army Group C retained its position along the French border, opposite the Rhine River and the Maginot Line. Immediately to Leeb's north, Rundstedt's Army Group A constituted the center of the German line, and on his right, Army Group B under von Bock constituted the northern wing. The original plan of attack, embodied in “Directive No. 6 for the Conduct of the War,” dated 9 October, and prepared in Warlimont's department, called for an attack based on the old “Schlieffen” plan, with the difference that this time both Holland and Belgium were to be overrun, whereas in 1914 Holland had been left untouched. Under this plan, the main concentration of forces was in von Bock's northern army group, which was expected to swing rapidly through Holland and Belgium and down the French Channel coast.

During the winter, this plan was abandoned, and by March a new plan had been adopted under which the main concentration (“Schwerpunkt”) of forces was entrusted to Rundstedt's Army Group A in the center. This plan called for a strong attack through

* Document reproduced below in section VI D 1.

Luxembourg and the Belgium Ardennes with the purpose of breaking through the Maginot Line near Sedan. It was expected that, as soon as von Bock's army group pushed into Holland and Northern Belgium, the bulk of the French and British forces would be drawn north for the defense of the Low Countries, that Rundstedt's attack through Sedan, if pressed rapidly through to the channel coast, would result in splitting the Allied forces, and that those cut off to the North could be annihilated. And this, indeed, is what actually happened, with the exception that the evacuation from Dunkirk saved a substantial part of the British Army from destruction.

When the attack was finally delivered, von Bock's army group, of which the defendant Salmuth was still Chief of Staff, comprised the Eighteenth Army under Kuechler, which invaded Holland, and the Sixth Army under Reichenau, which pushed into northern Belgium. Rundstedt's army group included the Fourth, Twelfth, and Sixteenth Armies under Kluge, List and Busch respectively, and an armored group under Kleist. Hoth's XV Corps was part of Kluge's Fourth Army. Reinhardt, a divisional commander in the Polish campaign, had now been given command of the XLI Corps in Kleist's armored group. Air support for Rundstedt's attack was furnished by Sperrle's Luftflotte 3.

In reserve were the Second and Ninth Armies. Blaskowitz, who had been made a full general after the Polish campaign, brought the Ninth Army to the front as part of Rundstedt's army group after the break-through, but was relieved shortly thereafter. Hollidt, by then a major general, was the Ninth Army's Chief of Staff.

After the first phase of the campaign in the Low Countries and Northern France had been successfully concluded, France's downfall was achieved in the second phase. Up to this time Leeb's Army Group C had played a purely defensive role, but in this second phase Leeb's forces attacked directly into France through the Maginot Line. The operation progressed so well that by 10 June, the vulture Mussolini decided to feed off the kill, and Italy mounted an attack on France from the south. A few weeks later the campaign was concluded, and for the second time in 25 years Germany's brazen violations of neutrality and blatant contempt for international agreements shocked and antagonized the civilized world. Once again the German people were fated to pay a heavy price for their leaders' mental and moral shortcomings. There are some things that German generals will never learn.

OFFENSIVE IN THE EAST

Germany's campaign in the West was concluded with the signing of an armistice at Compiègne on 22 June 1940, and the fighting ceased 3 days later. The Wehrmacht had achieved an amazing military success, which Hitler could not fail to acknowledge. Indeed, Hitler gracelessly overdid matters; a session of the Reichstag on 19 July 1940, in celebration of German victory, was made the occasion for such an orgy of promotions that many of the newly appointed field marshals and full generals must have felt that Hitler had only succeeded in cheapening the high ranks bestowed. No less than nine army and three air force officers—around a dozen in all—were made field marshals that day. This was quite unprecedented; during the entire First World War only five (other than the royal princes) had received the coveted baton.* In addition to the defendant Leeb, the highest rank was now conferred on von Bock, Brauchitsch, Keitel, Kluge, List, Reichenau, Rundstedt, and Witzleben. In the air force the defendant Sperrle and Kesselring were given double promotions from lieutenant general to field marshal, and Milch also made the grade. To keep matters straight, it was, of course, necessary to give Hermann Goering an even higher rank; this dilemma was solved by calling him a "Reich Marshal." The honors of a full general were dispensed even more liberally. The defendants Kuechler and Hoth were joined by 12 other army officers and five air force officers, or 19 in all.

After the fall of France, it became increasingly clear that the British were not in the least disposed to quit, and the Wehrmacht again confronted the problem, "What next?" Three alternative courses of action found support within the Wehrmacht. The first was to prepare for an amphibious invasion of England. Under the code name, "Sea Lion," plans were drawn up for a cross-channel attack. The second, favored by Brauchitsch, was to strike England in the Mediterranean by reducing Gibraltar with the assistance of a friendly Franco, and supporting an Italian offensive against Egypt. The third, suggested as early as 22 July at a conference between Hitler and Brauchitsch, was the conquest of the Soviet Union.

The plan of invading England was plagued from the outset with inter-service friction and the slender resources of the German Navy. The diary of General Halder, the Chief of the Army General Staff, under date of 6 August 1940, states:

* German field marshals in the First World War included, in order of appointment, von Hindenburg, von Buelow, von Mackensen, von Weyrsch, and von Eichhorn. In addition, the Princes Ruprecht, Leopold of Bavaria, and Albert of Wuerttemberg were made field marshals.

“We have here the very strange situation where the navy is full of misgivings, the air force is very reluctant to put a hand to an assignment which is entirely up to them at the outset, and the OKW, which for once has a real combined forces operation, just plays dead. The only driving force in the whole matter is supplied by us, the army; but alone we won't be able to swing the job.”

By November 1940, “Sea Lion” had been abandoned, and was never revived. The interesting idea of concentrating the Axis attack in the Mediterranean never got beyond the speculative stage. Hitler and Franco were never able to agree on a program for the reduction of Gibraltar, and German action against Egypt, despite Rommel's spectacular successes, was never put on a large-scale basis.

It became increasingly apparent, therefore, that an offensive against the Soviet Union was most likely to be the next step. There can be no doubt that Hitler intended from the outset to discard the treaty of 1939 with the Soviet Union as soon as it had served its usefulness.

Russia's annexation of Bessarabia at the end of May [June] 1940, had already caused Hitler and the generals uneasy moments. As early as 31 July 1940, during a conference with the army and navy high commands at the Berghof, Hitler expressed skepticism concerning the success of an attack on England, and went on to say (*NOKW-3140, Pros. Ex. 3159*):*

“England's hope lies in Russia and America. If hope of Russia is taken away, America, too, is lost for England, because elimination of Russia is followed by a tremendous build-up of Japan's power in eastern Asia. Russia is England's and America's dagger against Japan. Current tendency in Japan is inconvenient for England. Japan, like Russia, has a program that is to be carried out before the war ends. Russia is the factor on which England is counting the most. Something must have happened in London! The English were completely down, now they have been revived. Russia is somewhat disturbed about the rate at which the European situation develops. All Russia has to do is to say to England that it does not care to have a great Germany, and the English immediately hope with the strength of drowning men, that the situation will be radically changed within 6-8 months.

“With Russia smashed, England's last hope would be gone. Germany then will be the master of Europe and the Balkans. It follows from this reasoning that Russia must be done away with. Spring 1941.

* Document reproduced in part below in section VI D 3b.

“The sooner Russia is crushed, the better off we are. Operation achieves its purpose only if Russian State is shattered to foundation with one blow. Territorial gains alone will not do. So it is better to wait a little longer, but sustain the resolution to eliminate Russia. This is necessary also because of location on Baltic. Have no use for a second first-rate power on Baltic. May '41. Five months' time to finish job. This year yet would be the best, but unified action would not be possible.”

And so, during the fall of 1940, as the plans for “Sea Lion” were shelved and the German Air Force met defeat in the Battle of Britain, Hitler and the military leaders turned their thoughts increasingly toward the age-old German dream of an empire in the East—toward the Soviet Union. But as events developed, two small Balkan states stumbled into the path of this new and gigantic aggressive war—Greece and Yugoslavia. Through no doing of their own they became the next to suffer the living hell of German attack and occupation. On 28 October 1940, Mussolini launched a surprise attack against Greece from Albania in an effort to expand Italian dominion in the Mediterranean. But the strike went amiss; the valiant Greeks gathered their forces and drove the Italian invader back towards the Albanian frontier. By the end of 1940, the Italian forces had taken a considerable mauling from the Greeks.

There is every indication that Hitler strongly disapproved of Mussolini's Greek adventure, and that the German generals were not displeased at the discomfiture of their Italian ally. Nevertheless, the possibility that the British would establish a foothold in Greece made it desirable for Germany to come to the aid of the Italians. By December 1940, Hitler had definitely decided to send a German force into Greece. An order, dated 13 December 1940, and drafted by Warlimont, stated (*1541-PS, Pros. Ex. 1175*):*

“The result of the battles in Albania is not yet decisive. Because of a dangerous situation in Albania it is doubly necessary that the British endeavor to create airbases under the protection of a Balkan front be foiled, which would be dangerous above all to Italy as well as to the Rumanian oil fields.

“My plan, therefore is (a) to form a slowly increasing task force in southern Rumania within the next months, (b) after the setting in of favorable weather, probably in March, to send the task force for the occupation of the Aegean north coast by way of Bulgaria, and, if necessary, to occupy the entire Greek mainland (*Operation Marita*). The support of Bulgaria is to be expected.”

* Document reproduced below in section VI D 3a.

In pursuance of this plan, Field Marshal List's 12th Army headquarters established itself in Rumania shortly thereafter, and early in March it crossed the Danube into Bulgaria to deploy for the attack against Greece. One of the divisions in List's army was the 50th Infantry Division, commanded by the defendant Hollidt.

In the meantime, Ribbentrop secured the adherence of Yugoslavia to the Tripartite Pact, formally given in Vienna on 25 March. But the next day, a *coup d'état* in Belgrade overthrew the government, and the new government repudiated the Axis pact. German reaction was swift and merciless. On 27 March, Hitler conferred with the military leaders and pointed out that Yugoslavia was now an uncertain factor, not only with respect to the coming attack on Greece, but even more so with respect to the planned invasion of the Soviet Union. The notes on this conference, initialed by Warlimont, state (1746-PS, Pros. Ex. 1180) :

"The Fuehrer is determined, without waiting for possible loyalty declarations of the new government, to make all preparations in order to destroy Yugoslavia militarily and as a national unit * * *. The attack will start as soon as the means and troops suitable for it are ready * * *. Politically it is especially important that the blow against Yugoslavia is carried out with unmerciful harshness and that the military destruction is done in a lightning-like undertaking."

As a result of all this, a coordinated plan of campaign against both Greece and Yugoslavia was immediately devised. Naval support for the operation against Greece was arranged by the Naval War Staff under Schniewind. On 29 March, further OKW orders drafted by Warlimont were distributed to Reinecke and Lehmann, among others.

The attack was set in motion on 6 April 1941, when part of List's forces in Bulgaria (including Hollidt's 50th Division) moved southward into Greece and westward into Yugoslavia. Simultaneously Belgrade was ruthlessly bombed. Two days later an armored force under Kleist detached itself from the 12th Army and attacked from the northwest, from Bulgaria, toward Belgrade. On 10 April, Yugoslavia was attacked from the north by the German Second Army, which had been deployed in Austria and Hungary. A special task force had also been assembled in eastern Rumania under the defendant Reinhardt, by then a lieutenant general. On 11 April, this force struck south toward Belgrade, and less than 48 hours later Reinhardt's and Kleist's forces met in Belgrade. Within a few days the bulk of the Yugoslav forces had capitulated, and within a matter of weeks Greece had also succumbed. Leaving behind a few divisions for occupation duties, the bulk of the German forces were rapidly pulled out of the Balkans in order to

make them available for the campaign against the Soviet Union.

In the meantime, plans for the gigantic military undertaking against the Soviet Union had been vigorously pushed. On 6 September 1940, troop movements from France to the East were begun in accordance with an order issued by Brauchitsch to Leeb, Kuechler, and Salmuth, among others. An OKW directive from Warlimont's department instructed counterintelligence agents how to camouflage the build-up on the eastern border. A few days later, a military mission was sent to Rumania to lay the groundwork for a joint attack against Russia from that country. Political discussions which took place with Molotov in Berlin late in 1940 did nothing to change Hitler's intentions, and on 18 December 1940 he issued the basic strategic directives to the Wehrmacht for "Case Barbarossa", the code name for the attack against the Soviet Union, which stated (446-PS, *Pros. Ex. 1200*):*

"The German Armed Forces must be prepared to crush Soviet Russia in a quick campaign before the end of the war against England."

Preparations were to be completed by 15 May 1941. As we have just seen, the campaign in Greece and Yugoslavia intervened, and caused a five weeks' postponement, a circumstance which turned out to be of great importance.

In the planning and execution of the aggressive war against the Soviet Union, all of the defendants participated except Sperrle and Blaskowitz. The former remained as Commander in Chief of Air Fleet 3 and in charge of the air war in the West. In October 1940, Blaskowitz was appointed Commander in Chief of the First Army, which was deployed in southern France, and he too remained in the West until the end of the war.

For the initial onslaught against the Red Army, seven armies and four armored groups were deployed along the Russian border from East Prussia to Rumania. Once again the attack was directed by three army groups, with the same three army group commanders as in the two previous major campaigns. The jumping-off point for Army Group North, commanded by Leeb, was East Prussia. On this occasion, Leeb's role was by no means defensive; his mission was to push through the Baltic territories and capture Leningrad. Under him were the 18th Army commanded by Kuechler, the 16th Army under Busch, and the 4th Armored Group under Hoepner; the defendant Reinhardt commanded a corps under Hoepner.

Army Group Center under von Bock comprised the Fourth and Ninth Armies under Kluge and Strauss respectively, and the Second and Third Armored Groups under Guderian and the defendant

* Document reproduced below in section VI D 3b.

Hoth respectively. Army Group South under Rundstedt comprised the 6th Army under Reichenau, the First Armored Group under Kleist, the 17th Army under Stuelpnagel, and the 11th Army under von Schobert, with the defendant Woehler as Chief of Staff. The 11th Army was assembled in Rumania, and was to attack through Bessarabia and eastwards along the Black Sea north coast in conjunction with Rumanian forces. Schobert's army included the XXX Corps under Salmuth, and the 50th Division under Hollidt. And now for the first time we encounter the defendant von Roques, who had retired from active service in 1935, but was called up again in April 1940. In 1941, with the rank of lieutenant general, he was appointed commander of the Rear Area of Rundstedt's Army Group South. In this capacity he was responsible for the security of communications and supply routes behind Rundstedt's army group.

The defendant Schniewind, who had become a full admiral in 1940, was in charge of the naval planning for "Barbarossa". A few days prior to the actual attack, however, he was appointed Commander in Chief of the High Seas Fleet, and therefore was not closely concerned with the actual execution of the Russian campaign. The defendants Reinecke, Warlimont, and Lehmann continued in the same positions at OKW that they had previously occupied.

Throughout the spring of 1941, all the defendants (except Sperrle and Blaskowitz) were engaged in intensive preparations for their part in the attack. For example, on 21 March, the OKH requested all army group or army commanders and chiefs of staff to attend a conference on "Barbarossa," as well as to have breakfast with the Japanese Ambassador. By 12 March, Hoth had issued deployment orders to his Panzer Group 3, and Reinhardt was preparing a plan of attack for his XLI Corps. Kuechler had been ordered by Leeb to take the necessary measures for an assault on the Baltic Islands. Frequent entries in the diary of the Naval War Staff give evidence of the activity of its Chief of Staff, Schniewind. He was so eager to join battle that, as early as 22 April 1941, he requested permission from the OKW to use arms against Russian naval units, since camouflage of preparations could be perfect anyway. On 28 April, Warlimont prepared a memorandum concerning questions which should be discussed with the Finnish delegation on the Russian invasion. Subsequent discussions led to the conclusion of a Finnish-German military agreement, under which Finland would join in the war against Russia. Pursuant to this agreement, the German 20th Mountain Army was sent to northern Finland; however it did not come under the

orders of the Finnish Army, but remained under the direct command of OKW.

In presenting the evidence under counts two and three of the indictment, we will have ample occasion to observe that the German plans with respect to the invasion of the Soviet Union went very much further than the usual type of military plans. It was Hitler's intention that, as the German Armies proceeded into Russia, all vestiges of the pre-existing government should be wiped out, and all Jews and important political functionaries exterminated; that a complete new system of local and regional government should be set up; and that the Russian economy should be mobilized for Germany's war needs in complete disregard of the requirements of the indigenous population. Since Germany's purposes were so broad, and indeed so deeply criminal, much more elaborate orders and directives had to be prepared in advance of the attack against the Soviet Union than on previous occasions. Thus for example, on 13 March, Keitel signed a directive, prepared in Warlimont's department, which stated (447-PS, *Pros. Ex.* 588):

"In the area of operations, the Reich Leader SS (Himmler) is, on behalf of the Fuehrer, entrusted with special tasks for the preparation of the political administration, tasks which result from the struggle which has to be carried out between two opposing political systems. Within the realm of these tasks, the Reich Leader SS shall act independently and under his own responsibility. The executive power vested in the Commander in Chief of the Army, and in agencies determined by him, shall not be affected by this. It is the responsibility of the Reich Leader SS that through the execution of his tasks military operations shall not be disturbed. Details shall be arranged directly through the OKH with the Reich Leader SS."

The "special duties" referred to meant the mass murder of Jews, the intelligentsia, and Communist functionaries by the Einsatzgruppen of the Security Police and SD. This, as our proof will show, was only one phase of the criminal plans laid by these defendants and their collaborators to destroy ruthlessly Russian soldiers and civilians who might be expected to oppose the "New Order" for Europe. Only a few weeks later, Warlimont and Lehmann drafted an order pursuant to which tens of thousands of so-called political commissars of the Red Army were killed in cold blood by the Wehrmacht or handed over to the Einsatzgruppen for execution. It was these same two worthies who prepared the order removing enemy civilians from German military jurisdiction and permitting German soldiers to engage in wanton slaughter at the whim of any officer and without fear of any punishment.

Before ever a shot was fired, orders were issued for the screening of Russian prisoners of war, under the jurisdiction of the defendant Reinecke, for the purpose of weeding out and executing all "suspicious elements". We shall speak of these matters in more detail at a later point.

By the end of April, plans had so far progressed as to permit the fixing of D day for 22 June. The Russian Government had in the meantime done everything in their power to avoid conflict with Germany. Thus, the entry for 6 June in the diary of the German Naval War Staff stated:

"Ambassador in Moscow reports * * * Russia will only fight if attacked by Germany. Situation is considered in Moscow much more serious than up to now. All military preparations have been made quietly—as far as can be recognized only defensive. Russian policy still strives, as before, to produce the best possible relationship to Germany * * *."

But the die had long since been cast; the leaders of the Third Reich were determined to destroy Russia and nothing could dissuade them from their criminal aims. On 14 June, the military leaders including Leeb, Kuechler, Hoth, and Warlimont reported to Hitler the state of preparations for "Barbarossa," and eight days later the attack was launched. In a proclamation published shortly after the border had been crossed, Hitler stated:

"I have decided to give the fate of the German people, and of the Reich, and of Europe, again into the hands of our soldiers."

Six months later, Germany's Axis partner Japan attacked the United States at Pearl Harbor and in the Far East. German policy was generally opposed to involvement of the United States until 1941. During that year, however, strenuous efforts were made to bring Japan into the conflict on Germany's side, and policies were urged upon her which were almost certain to involve the United States in the war. Following a conference between Ribbentrop and the Japanese Ambassador Oshima in February 1941, Keitel issued an order, drafted in Warlimont's office and initialed by Schniewind, directing the armed forces to collaborate in a "comprehensive and generous manner" with Japanese requests for military information, and stating that:*

"It must be the aim of the collaboration, based on the Tri-Partite Pact, to induce Japan as soon as possible to *take active measures in the Far East*. Strong British forces will thereby be tied down, and the center of gravity of the interests of the United States of America will be diverted to the Pacific."

* Trial of the Major War Criminals, *op cit. supra.*, vol. III, p. 376.

Following the Japanese attack on Pearl Harbor and Manila, Germany declared war on the United States on 11 December 1941, pursuant to commitments previously given the Japanese.

In concluding our outline of the evidence under counts one and four, the prosecution wishes to recall the International Military Tribunal's declaration that the deliberate launching of a war of aggression "is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole".¹ It is the responsibility of the prosecution to prove that these grave charges have not been lightly brought. For the matter at hand here is far weightier than any which we—as judges, lawyers, or soldiers—are ever likely to face again. As Mr. Henry L. Stimson has profoundly observed:²

" * * * the Second World War brought it home to us that our repugnance to aggressive war was incomplete without a judgment of its leaders. What we had called a crime, demanded punishment; we must bring our law in balance with the universal moral judgment of mankind * * * .

"The law made effective by the trial at Nuernberg is righteous law long overdue. It is in just such cases as this one that the law becomes more nearly what Mr. Justice Holmes called it: 'the witness and external deposit of our moral life.' "

COUNTS TWO AND THREE—WAR CRIMES AND CRIMES AGAINST HUMANITY

MR. DOBBS: We now turn to the war crimes and crimes against humanity in which all the defendants participated in the course of waging wars of aggression. Under count two of the indictment, the defendants are charged with the commission of crimes against enemy belligerents and prisoners of war, while count three charges them with crimes against civilians of countries overrun by the Wehrmacht.

Every war involves killing. Any war means death, and pain, and grief. For centuries the civilized nations of the world have attempted to reduce the death and suffering by observing the laws and usages of war. By international conventions and agreements, such as the Hague and Geneva Conventions, and by general custom, certain practices are internationally regarded as cruel, inhumane, and criminal. Such barbarities include the killing of surrendered belligerents, the refusal of quarter, and torture or other ill-treatment of belligerents or inhabitants of occupied countries. Such acts are crimes and, if they result in death, are murders.

¹ *Ibid.*, vol. I, p. 186.

² The Nuremberg Trial: Landmark in Law by Henry L. Stimson, in "Foreign Affairs", January 1947.

It will be said that in time of war some such crimes must occur in every army. That, undoubtedly, is true. But as Justice Jackson has said, "It is not because they yielded to the normal frailties of human beings that we accuse them. It is their abnormal and inhuman conduct which brings them to this bar."¹ The prosecution will not present isolated cases of spontaneous brutality by German soldiers. Instead, it will portray a deliberate policy—emanating from the highest levels of the Wehrmacht—of murder and ill-treatment of civilians and prisoners of war, applied in every theater of war and by all of these defendants. This policy is rooted in the contemptuous and scornful attitude toward the laws of war which has characterized the German Officers' Corps for decades past. At the very outset, we mentioned the scoffing attitude toward the Hague Conventions expressed in the German military manual; on this matter, a distinguished American commentator has written:

"One can scarcely determine from a reading of the German manual whether the rules of the Hague Convention were ever intended to bind belligerents in the conduct of war. In fact, they are rarely mentioned, and when they are referred to it is usually in derision. A good many of its rules are clearly in conflict with the Convention, and various regulations annexed to the Convention are cynically dismissed with the statement that they are excessively humane, or that they are good in theory but will never be observed by belligerents in practice, etc. The fact is, the General Staff does not look with favor upon the movement to reduce the law of war to written form, for the reason that the effect would be to limit the arbitrary powers of military commanders and thus to put an obstacle in the way of military success."²

The First World War accomplished nothing in the way of changing the attitude of the German Officers' Corps toward the laws of war. A most revealing memorandum from the files of the Reich Defense Ministry, written in September 1924, by Lieutenant Colonel Otto von Stuelpnagel, embodies his suggestions as to what attitude the Wehrmacht should take toward a revision of the Hague rules, in the event of a new Hague Conference. After conceding grudgingly that it would be wise to participate in such a conference, inasmuch as "refusal to accept an invitation * * * would only be used to Germany's detriment for propaganda purposes by our ex-enemy nations, and would again be misrepresented as malicious intentions on the part of Germany," the author stated that "the first basic question to be answered is: What attitude

¹ Trial of the Major War Criminals, *op. cit. supra.*, vol. II, p. 102.

² J. W. Garner, *The German War Code*, published in vol. XV, *University of Illinois Bulletin*, 5 August 1918.

should the German delegation take at a new Hague Conference?" In view of the small size of the German Armed Forces at that time and the restrictions of the Versailles Treaty, the writer thought that the answer to this question depended upon whether "the possibility of a struggle for liberation exists in the not too distant future." His memorandum continued:

"Can we, in consideration of the present political situation, at all afford to advocate a ruthless use of force? Is this not likely to result in another hate-campaign against Germany, in new and more intensive measures of control and a closer coordination of our enemy nations? The ex-enemy powers, quite aware of their present military superiority, will undoubtedly advocate a strictly regulated conduct of war and lay the greatest stress upon observance of all laws of humanity."

The evidence under counts two and three will abundantly demonstrate the poisonous effect of these views on German methods of warfare during the Second World War, and especially their shocking and disastrous impact upon the civilian populations of countries occupied by Germany. For the most part, those criminal policies were embodied in orders and directives framed at the very top level of the Wehrmacht, usually with direct participation by Warlimont and Lehmann, and, within his fields of work, of Reinecke also. These orders were distributed through regular military channels to the highest field commanders, including all of the other defendants in this case, and were by them passed down to the lower formations, where the orders were actually carried out.

In outlining the charges under counts two and three, it will be most convenient to deal first with the criminal orders and directives which were chiefly intended for the conduct of the war and the German military occupation in western and southern Europe, and secondly with those which were especially connected with the war against the Soviet Union. In all theaters of war, of course, these criminal orders and the crimes which resulted therefrom, sprang from the same disregard for the laws of war and the dictates of humanity. Likewise, numerous types of war crimes and crimes against humanity were common to all theaters. Nevertheless, there were certain significant distinctions, arising chiefly out of differences in the technique of warfare in the West as compared to the East, and out of the different occupational tactics which the Germans chose to apply among the various occupied countries.

Finally, after sketching the chief categories of crimes in the West and in the East, we will outline the Wehrmacht's participation in the German slave labor program, which was a malignant common denominator of German occupation policy in all countries.

*WAR CRIMES AND CRIMES AGAINST HUMANITY
COMMITTED IN WESTERN AND SOUTHERN EUROPE*

Under count two of the indictment, the principal charge of war crimes committed in western and southern Europe relates to the so-called, "Commando," and "Terror Flier" orders. Under count three of the indictment, we will be chiefly concerned with criminal measures taken by the German Army in the occupied countries, involving the execution of hundreds of thousands of hostages, and the secret deportation and execution of many others under the notorious "Night and Fog Decree" (Nacht und Nebel Erlass).

**COUNT TWO—BELLIGERENTS AND PRISONERS OF WAR—
THE "COMMANDO ORDER"**

In the autumn of 1942, the Nazis were still at the climax of their power and the Allies in the initial stage of their preparations for the invasion which was to follow two years later. In August of that year British and Canadian "commandos" raided Dieppe. It was the first time since Dunkirk that Allied Forces had crossed the channel in strength to probe the German fortifications in the west, as a first rehearsal for the still distant invasion of "Fortress Europe."

In the following months, small groups of Allied soldiers dressed in uniform and carrying weapons openly—so-called "commando" units—were landed on the continent, mainly in France and Norway, to accomplish special combat missions which consisted predominantly in the destruction of highly important military installations. The Wehrmacht's answer to these legitimate acts of warfare was the notorious "Commando Order," which directed the summary execution of captured commando troops, even if fully uniformed. When the defendant Warlimont came to his office at the OKW on 8 October 1942, he found on his desk Hitler's directive for the drafting of the "Commando Order," together with the text of the official German radio announcement of 7 October 1942, which read as follows (1263-PS, *Pros. Ex. 122*):*

"All terror and sabotage troops of the British and their accomplices who do not act like soldiers but like bandits have in future to be treated as such by the German troops, and they must be slaughtered ruthlessly in combat wherever they turn up."

Immediately after receipt of the text of the radio announcement, Warlimont gave the following instructions with respect to its enforcement:

"1. Transposition into order-form.

* Document reproduced below in section VII C 4.

"2. * * * this order too, must—in accordance with the legal department and counterintelligence—be very carefully considered and correctly worded. Distribution only as far as the armies, from there only orally. To be destroyed after reading * * *."

By 9 October, the defendant Lehmann had completed a draft of the order, which was transmitted by Warlimont to the OKW Intelligence Department under Admiral Canaris for his comments. Canaris voiced strong objection; his words deserve to be quoted because they show not only that the utter illegality of the Commando Order was well known to those who prepared and executed it, but also that some of Hitler's military leaders dared to voice their opposition when they were so minded. In a memorandum received by Warlimont, Lehmann and Reinecke, Canaris stated:

"* * * Sabotage units in uniform are soldiers and have the right to be treated as prisoners of war * * *. Reprisals on prisoners of war, according to the agreement ratified in 1934, are absolutely not permitted."

This respect for international law was not unique to Canaris in the days when the Germans were themselves making widespread use of paratroops for sabotage purposes. As early as June 1938, the defendant Sperrle had stated in a plan for the employment of his Air Fleet 3 against France, in case of her intervention against the seizure of Czechoslovakia, that (*R-150, Pros. Ex. 1049*):

"It is intended to use parachute sabotage troops * * * for the purpose of destroying suitable targets, against which bombing raids cannot guarantee decisive success."

And in June 1940, the OKH advised all army groups and armies that (*NOKW-1207, Pros. Ex. 116*):

"German parachutists are elements of the *German Armed Forces* ('Regular Troops'). They are legal combatants and they carry out justified acts of warfare. Where they are committed (whether at the front, or behind the enemy lines, or in the rear) does not affect their quality as combatants. Their position as justified by martial law remains unchanged * * *."

But the accepted German view underwent a marked reversal when the shoe was on the other foot. Lehmann put forward the following pseudo-legal justification as an excuse for murdering commandos:

"Whoever performs acts of sabotage as a soldier, with the idea in mind to surrender without a fight after the act is successfully completed, does not conduct himself as an honorable

warrior. He *misuses* the rights of article 23c, Hague Convention, since such methods of warfare had not been thought of at the time this article was formulated.”

On 17 October 1942, Jodl submitted the final draft of the “Commando Order”, prepared by Warlimont and Lehmann, to Hitler, and on the following day it was issued, stating in part (498-PS, *Pros. Ex. 124*):*

“From now on all enemies on so-called commando missions in Europe or Africa challenged by German troops, even if they are to all appearances soldiers in uniform or demolition troops, whether armed, in battle, or in flight, are to be slaughtered to the last man. It does not make any difference whether they are landed from ships or airplanes for the actions, or whether they are dropped by parachute. Even if these individuals, when found, should apparently be prepared to give themselves up, no pardon is to be granted them on principle * * * .”

“If individual members of such commandos, such as agents, saboteurs, etc., fall into the hands of the armed forces by some other means, through the police in occupied territories, for instance, they are to be handed over immediately to the Security Service * * * .”

Because commando operations were most prevalent in the western and southern theaters of war, it was in these theaters that the order was of most importance. It was, however, distributed by the OKW to all three branches of the service—army, navy, and air force—and to all theaters under the OKW, including Norway, Africa, the Balkans, the Mediterranean, France, and the Low Countries. It was passed to Himmler’s SS and Police Force, and the OKH sent the order down to all army groups and armies in the East. From them it went down to the divisions and lower units. Each and every defendant in the dock—except Leeb, who had retired some months earlier—was familiar with the Commando Order, and each of them, like every other German officer, knew perfectly well that it required the commission of murder. Pursuant to this order, British and Norwegian commandos were executed in Norway in 1942 and 1943, American commandos were shot in Italy in 1944, and other Allied soldiers were murdered in these countries and elsewhere.

The first executions of captured commandos occurred not more than a fortnight after the order was issued. On 21 November 1942, Warlimont received the following report from Air Fleet 5 in Norway:

“Following supplementary report is made about landing of a British freight glider at Hegers in the night of November 11:

* *Ibid.*

'a. No firing on the part of German defense.

'b. The towing plane (Wellington) has crashed after touching the ground, 7-man crew dead. The attached freight glider also crashed, of the 17-man crew, 14 alive. Indisputably a sabotage force. Fuehrer order has been carried out.'"

And so the reports came in—British, American, French, Norwegian, Greek commandos, slaughtered in battle, slaughtered in captivity; the laconic reports tell a story of foul murder. A teletype signed by Warlimont to the Commander in Chief Southeast directed (*NOKW-227, Pros. Ex. 155*):*

"* * * The English radio operator Carpenter and the Greek sailor Lisgaris, captured at Alimnia, are no longer needed and are released for special treatment, according to Fuehrer order."

"Special treatment" is a German euphemism for murder; another is "dealt with." On 15 December 1942, the following was circulated in 320 copies over the signature of Field Marshal von Rundstedt (*NOKW-1616, Pros. Ex. 140*):

"We must count to an increased extent on various attempts by the enemy to damage our shipping lanes and other important military objects. Proof of that is the landing of English saboteurs from an English submarine at the mouth of the Gironde River on 8 December 1942. Even though one gang was caught and dealt with, further sabotage troops, nevertheless, reached Bordeaux and succeeded in damaging valuable freighters by explosives with attached magnets, on 12 December 1942."

Yes, those British commandos were "dealt with"; they were shot down in cold blood after capture and interrogation. Their relatives did not even have their anxiety ended by a death report. In an interpretation of the "Commando Order," given to the OKW department for prisoner of war affairs under Reinecke, Warlimont said (*NOKW-004, Pros. Ex. 149*):

"The Armed Forces Operations Staff [Jodl's and Warlimont's section of OKW] considers it to be out of the question hereafter that saboteurs should be treated as soldiers—in accordance with the Fuehrer's order—which would be the case if their death should be reported to the enemy nation in accordance with the regulations valid for fallen enemy soldiers. Thus the Armed Forces Operations Staff, is of the opinion that no reports of death should be made."

Reinecke's prisoner of war department received reports on the execution of commandos, and on occasion, when a commando was committed to a prisoner of war camp by mistake, he was later

* Ibid.

turned over to the Security Service for execution. For example, Stalag 7a, under the jurisdiction of Reinecke, was directed to surrender a British commando to the Security Service on 16 April 1944.

On 22 June 1944, Warlimont gave an enlightening explanation of the "German concept of usage and customs of warfare" in a memorandum to the legal department under Lehmann (506-PS, *Pros. Ex. 158*):

"The Fuehrer order is to be applied even if the enemy employs only *one* person for a task. Therefore, it does not make any difference if several persons or a single person take part in a commando operation. The reason for the special treatment of participants in a commando operation is that such operations do not correspond to the German concept of usage and customs of warfare."

Nor did the murder of Allied commandos cease with the invasion of France by Anglo-American forces on 22 June 1944. On 23 June, Rundstedt requested OKW to clarify the applicability of the order in view of the large-scale landing. In a reply the following day, Warlimont directed that the Commando Order should be enforced against all paratroopers found outside of the immediate combat zone. Daily reports on the number "liquidated" were also required. This order was sent through military channels on 29 June to the defendant Blaskowitz, then Commander in Chief of Army Group G in southern France. He in turn passed the order down to units subordinated to him, including the First Army, whence it reached the LXXX Corps under the First Army. The order passed down by Blaskowitz explicitly required all executions of commandos to be reported through army channels. A few days later, on 3 July 1944, thirty odd British and American commandos were captured by troops of the LXXX Corps and summarily executed.

COUNT TWO—BELLIGERENTS AND PRISONERS OF WAR— THE "TERROR FLIER" ORDER

When any Allied method of warfare started to prove effective against the Wehrmacht, the usual first reaction of its leaders was to declare such methods of warfare criminal and threaten with death the enemy troops engaged therein. A year after the successful commando raids aroused the German wrath, the growing strength of the Allied Air Forces began to be acutely felt. In view of the wondrous shortness of the German memory, we will do well to remind ourselves that in the field of aerial attacks against

enemy cities, the Allies were imitators, not originators; Warsaw, Rotterdam, London, and other cities were flattened or badly scarred long before any German city suffered severely. Nonetheless, by the fall of 1943 Allied attacks in Germany aroused indignant screeches from Goebbels and Himmler. The former used the press and other means to incite the German civilian population to lynch American and British fliers who had been forced to parachute from disabled planes over Germany, and Himmler directed the German police not to protect Allied fliers from these lynching bees.

As was often the case, the German soldier was more chivalrous when acting on his own initiative than when following the orders of his highest superiors. On several occasions Wehrmacht troops protected Allied fliers from civilian attacks, as indeed the laws of war required, for the airmen were unarmed, endeavored to surrender, and were entitled to the status of prisoners of war.

Such soldierly conduct could not be tolerated by OKW; on 9 July 1944, an order prepared by Warlimont's section was issued by OKW which directed that Wehrmacht troops should not protect so-called Anglo-American "terror flyers" against action by the civilian population. This order stated in part (*NOKW-3060, Pros. Ex. 1462*):*

"It has happened recently that soldiers have turned against the population to protect Anglo-American terror flyers, and have thereby aroused their justified indignation. I request that it be made sure speedily that this will be prevented * * * .

"No German fellow countryman can be capable of understanding such conduct of our armed forces. Also, the population of the occupied territories is not to be prevented from resorting to self-help in justified indignation at Anglo-American terror flyers * * * ."

This order, together with a similar order by Hitler and murderous incitement by Goebbels through the press, led to the slaughter of numerous Allied airmen in flagrant violation of the rules of war.

COUNT THREE—CIVILIANS—"NIGHT AND FOG" DECREE

MR. BARBOUR: The Wehrmacht's policies and practices in governing the occupied countries were characterized by a blind and unimaginative faith in the use of ruthless force and methods of intimidation and terrorism. This policy was not only brutal and criminal; it was senseless and bound to end in failure. Catastrophe was the price that the leaders of the Third Reich had to pay for their arrogant disregard of law and for their failure to realize

* Document reproduced below in section VII C 5.

that in the end stupid violence is a weapon which recoils upon its user. The so-called "Night and Fog" (Nacht und Nebel) Decree was the foundation of a system which embodied these principles to perfection. It was the means through which the Wehrmacht sought to "pacify" the countries of western Europe. The IMT found in connection with this decree, that "The evidence is quite overwhelming of a systematic rule of violence, brutality, and terror".¹ The circumstances surrounding the issuance and enforcement of the Night and Fog Decree were the subject of extensive testimony before Military Tribunal No. III in Case No. 3.²

That Tribunal stated, in its judgment:

"The Night and Fog Decree (Nacht und Nebel Erlass) arose as the plan or scheme of Hitler to combat so-called resistance movements in occupied territories. Its enforcement brought about a systematic rule of violence, brutality, outrage, and terror against the civilian populations of territories overrun and occupied by the Nazi armed forces. (*Tr. p. 10715.*)

" * * * civilians of occupied territories accused of alleged crimes in resistance activities against German occupying forces were spirited away for secret trial by special courts of the Ministry of Justice within the Reich; that the victim's whereabouts, trial, and subsequent disposition were kept completely secret, thus serving the dual purpose of terrorizing the victim's relatives and associates, and barring recourse to evidence, witnesses, or counsel for defense. If the accused were acquitted or if convicted, after serving his sentence, he was handed over to the Gestapo for 'protective custody' for the duration of the war. These proceedings resulted in the torture, ill-treatment, and murder of thousands of persons." (*Tr. p. 10714.*)

On 12 December 1941, the OKW, through Keitel, issued the Night and Fog Decree, which had been prepared by the defendant Lehmann in the OKW Legal Department. (*1733-PS, Pros. Ex. 797.*) It provided in part as follows:

"I. In case of criminal acts committed by non-German civilians and which are directed against the Reich or the occupation power, endangering their safety or striking power, the death penalty is applicable in principle.

"II. Criminal acts described in paragraph I will, in principle, be tried in the occupied territories only when it appears probable that death sentences are going to be passed against the offenders, or at least the main offenders, and if the trial and the execution of the death sentence can be carried out without

¹ Trial of the Major War Criminals, *op. cit. supra.*, vol. I, p. 232.

² United States vs. Josef Altstoetter, et al., Vol. III.

delay. In other cases the offenders, or at least the main offenders, are to be taken to Germany."

In a covering letter, also written by the OKW Legal Department, the purpose of the decree was given:

"Efficient and enduring intimidation can only be achieved, either by capital punishment or by measures by which the relatives of the criminal and the population do not know the fate of the criminal. This aim is achieved when the criminal is transferred to Germany."

A copy of this order, which was made effective in France, Holland, Norway, Bohemia and Moravia, and the Ukraine was received by the defendants Warlimont and Reinecke.

About 2 months prior to the issuance of this decree, the defendant Lehmann had been informed by Keitel that Hitler desired new means to be found for combating the growing resistance movement in France. Lehmann was a guiding spirit in the formulation, issuance, and execution of the Night and Fog Decree.* Some of its unfortunate victims were tried in secret court sessions, and in many instances no indictment was served. But many victims were not afforded even this miserable semblance of a trial; they were simply shipped directly to a concentration camp. "NN" prisoners, as they were called, were held in Mauthausen, Auschwitz, Flossenbuerg, Dachau, Ravensbrueck, Buchenwald, and numerous other concentration camps. There they were starved, tortured, and killed. Those in charge of the camps were instructed that absolute secrecy of detention was to be observed and the prisoners were denied all means of communication with the outer world.

Nor was there any deliverance for the wretched victims after trial and acquittal, or after conviction and completion of their sentence. Thus, on 6 November 1943, Lehmann's legal department issued the following directive over Keitel's signature (*NOKW-2579, Pros. Ex. 815*):

"Perpetrators who have been acquitted in the course of judicial proceedings by the army, or against whom proceedings have been suspended, or who have fully served a term of imprisonment during the war, imposed by an army court, are to be handed over to the Secret State Police for detention for the duration of the war."

As the war continued, the "Night and Fog" Decree was supplemented by the so-called "Terror and Sabotage" Decrees. On 1 July 1944, the defendant Warlimont informed Lehmann that "be-

* The "Night and Fog" ("NN") Decree and measures taken in the execution thereof were likewise an issue in other Nuernberg trials, particularly in the Justice Case (Vol. III), the Pohl Case (Vol. V), and the Ministries Case (Vols. XII, XIII, and XIV), this series.

cause of incidents that have occurred at Copenhagen, the Fuehrer has ordered an immediate cessation of court martial proceedings against members of the civilian population in the occupied territories". Thereafter, by decrees, in the formulation of which both Lehmann and Warlimont participated, civilians charged with acts of violence were to be summarily shot without trial if apprehended "in the act", and, if arrested later, were to be turned over to the Security Police, a delivery tantamount to execution.

The defendant Lehmann can hardly tell us that he was unaware of the most goulsh aspects of this murderous business. On 26 April 1944, his department received the following communication (NOKW-2581, *Pros. Ex. 819*):*

"The Prosecutor General in Katowice has drawn attention to the fact that the corpses of NN prisoners (Night and Fog prisoners) who were sentenced to death by the special court in Oppeln and who were executed, are burned by the Gestapo. He expresses his doubts whether, because of the large number of cremations performed in the district of Katowice on account of the numerous deaths occurring in concentration camp Auschwitz, and on account of the numerous executions of Polish members of bands, the separation of the ashes of the individual dead is guaranteed."

COUNT THREE—CIVILIANS—HOSTAGES AND REPRISALS

We have seen in the previous section the criminal measures devised by the Wehrmacht for the imprisonment, deportation, or execution, without trial or with only the form of a trial, of persons suspected of hostile action against the German authorities. The other principal method adopted by the German occupational authorities was equally savage and senseless; it consisted in the indiscriminate murder of many thousands of innocent civilians—murder committed under the pretext of calling such persons "hostages"—in the absurd belief that the civilian population would be "pacified" by such measures. In fact, as could have been foreseen, such wholesale executions served rather to arouse and enrage the inhabitants, who thus saw thousands of their friends and relatives executed even though they had not lifted a finger against the occupying authorities.

While terroristic measures of this kind were not confined to any particular occupied country, they were applied with particular severity in western Europe and in the Balkans. Particularly in Greece and Yugoslavia, fantastically high execution ratios—ranging up to the execution of one hundred hostages for the killing

* Document reproduced below in section VII D 2.

of one German—were applied. During the fall of 1941, such ratios were adopted as standard German Army policy. On 16 September 1941, an OKW order, prepared in Warlimont's department and initialed by him, called attention to disturbances which had occurred in the occupied countries and stated (*NOKW-1492, Pros. Ex. 610*):

“a. It should be inferred in every case of resistance to the German occupying forces, no matter what the individual circumstances, that it is of Communist origin.

“b. In order to nip those machinations in the bud, the most drastic measures should be taken immediately on the first indication, so that the authority of the occupying forces may be maintained and further spreading prevented. In this connection it should be remembered that a human life in the countries concerned frequently counts for nothing, and a deterrent effect can be attained only by unusual severity. The death penalty for 50–100 Communists should generally be regarded in these cases as suitable atonement for one German soldier's death. The way in which sentence is carried out should still further increase the deterrent effect.”

While this order laid great stress on Communist responsibility for these uprisings, it was by no means intended that the hostages executed should in all cases be Communists. Quite the contrary. On 28 September 1941, another OKW order—again emanating from Warlimont's department—laid down the following:

“Because of attacks on members of the armed forces which have taken place lately in the occupied territories, it is pointed out that it is opportune for the military commanders to have always at their disposal a number of hostages of different political persuasions, i.e., (1) Nationalists; (2) democratic middle class; (3) Communists.

“It is of importance that among these are leading personalities or members of their families. Their names are to be published. In case of an attack, hostages of the group corresponding to that to which the culprit belongs are to be shot.”

The execution of hostages in Greece and Yugoslavia is one of the major charges against the defendants in Case No. 7, (*United States vs. Wilhelm List et al.*) now pending before Military Tribunal V. In the present case we will present evidence of similar crimes in other occupied countries, including France. For example, during July and August 1944, numerous hostages were executed in the area of Army Group G, commanded by the defendant Blas-kowitz. A month earlier, despite the fact that units of the French resistance forces fulfilled all the conditions for recognition as

properly constituted armed forces, and had been proclaimed part of the Allied forces, Blaskowitz issued to his subordinate units an order that "members of the French resistance movement are to be treated as guerrillas." That of course, meant immediate execution upon capture.

*WAR CRIMES AND CRIMES AGAINST HUMANITY
COMMITTED IN EASTERN EUROPE*

In turning from the western to the eastern theater of war, we will find nothing to mitigate the black criminality of the Commando Order and the Night and Fog Decree. Quite on the contrary. In western and southern Europe, the Wehrmacht was at least anxious to keep up the appearance of compliance with the laws and customs of war. But during the warfare in the East, the leaders of the Wehrmacht were totally uninhabited by considerations of law and humanity. Hitler and the generals laid their plans for the war against Russia on the basic assumption that every Slav is subhuman, and every Jew is subhuman and criminal as well. The Russians, therefore, were to be treated like beasts, and the Jews were to be killed like dangerous beasts. Orders and directives in line with these malignant views and policies were prepared by the military leaders, and distributed throughout the Wehrmacht. In the formulation and enforcement of these orders the German warlords sank far below the imagined qualities of the peoples they affected to despise and brutalized the German soldiers who trusted their leadership. Germany's treatment of the Jews of Europe and the Slavs of eastern Europe is the blackest page in the history of European civilization.

The murderous measures laid down within the German Army, in advance of the attack on Russia, were directed both at the soldiers of the Soviet Army and at the Russian civilian population. Attached to the combat units of the Russian Army were special officers who can best be described as "political commissars"; they represented the Communist Party and were responsible for the political indoctrination and morale of the Russian troops. However, they were not just pep talk boys; they were part of the Russian Army, wore its uniform, carried arms openly, and fought with conspicuous courage as part of the army at the front. But by express order of the German military leaders, laid down at the highest level, these soldiers were not to be taken prisoner under any circumstances, but, like the commando units on the western front, were to be slaughtered to the last man.

Within the Russian territory overrun by the Wehrmacht, all the safeguards required by the laws of war for the maintenance of order and the protection of the civilian population were done

away with. German troops were encouraged and, indeed, ordered to practice the utmost brutality in dealing with the Russian population. Except under very limited circumstances, no German soldier was to be punished for excesses against the civilian population. As if this were not enough, very special measures were taken to make sure that all Jews and all political officials of any importance, would be hunted down and murdered as soon as possible. For this purpose, special SS and Police forces were organized, furnished and instructed by Himmler. These gangs were to move into Russia with the German Army, and, with the full administrative support of the army, were to carry out their murderous mission.

The horrible purposes which we have just described were discussed between Hitler and the leading generals more than 3 months before the attack in the East was launched. On 17 March 1941, at a conference in which Hitler and the Chief of the Army General Staff, General Halder, participated, Hitler stated (*NOKW-3140, Pros. Ex. 1359*):*

“ * * * The intelligentsia working for Stalin must be exterminated. The hierarchy of the Russian Empire must be crushed. Maximum brutality must be applied throughout the Russian area. The ideological ties of the Russian peoples are not strong enough. They will break with the elimination of the functionaries.”

Two weeks later, these same views were outlined in greater detail in a long address by Hitler to a large number of generals on 30 March 1941, in Berlin. After announcing that, after the victory over the Russian Army, northern Russia would be annexed to Finland, and that the Baltic territories, White Russia and the Ukraine would be brought under German domination as “protectorates”, Hitler went on:

“Extermination of the Bolshevist commissars and the Communist intellectuals. The new states must be Socialist but have no intelligentsia of their own. The growth of a new intelligentsia must be prevented. All that is needed here is a primitive Socialist intelligentsia. The fight must be directed against the poison of disintegration. That is not a problem for military courts. The officers with the troops must know what is at stake, and must be leaders in this fight. Our troops must defend themselves with the weapons with which they are attacked. Commissars and GPU people are criminals and must be treated as such. That does not mean that troops must get out of hand. Officers must give the orders in accordance with the spirit of the troops.

* Document reproduced below in section VI D 3b.

"This war will differ greatly from the war in the West. In the East, harshness today means mildness in the future. The officers must accept the sacrifice of overcoming their personal reservations."

Such is the general background of the several criminal orders, the formulation and execution of which we will now describe. As the above account clearly shows, these orders were in no sense issued by way of reprisal for or in retaliation against any actions by the Soviet Army; on the contrary, they were coldly and deliberately formulated months in advance of the actual invasion.

For these manifold crimes in western and eastern Europe, all the defendants bear responsibility except Sperrle and Blaskowitz, who were never involved in the Russian campaign. The defendant Schniewind was relieved as Chief of Staff of the Naval War Staff (6 June 1941) just before the attack was launched, but prior to his transfer participated actively in the planning of the campaign against the Soviet Union, was present at conferences at which these criminal policies were discussed, and received, and distributed to naval units certain of the criminal orders mentioned above. The defendants Warlimont, Lehmann, and Reinecke, as leading officers of the OKW, were heavily involved in the formulation and distribution of these orders.

The remaining eight defendants were all high-ranking field commanders during the Russian campaign; they received these orders from the OKW and the OKH, and passed them down to their subordinate units, and the orders were executed by troops under their command. The defendant Leeb was Commander in Chief of Army Group North until January 1942, when he retired from active service at the age of 65. The defendant Kuechler, Commander in Chief of the Eighteenth Army at the outset of the campaign, succeeded Leeb as commander in chief of the army group. The defendant Hoth, who led a Panzer group into Russia, was promoted to the command of the Seventeenth Army in Rundstedt's Army Group South in October 1941, and in May 1942 was transferred to the command of the Fourth Panzer Army. The defendant Reinhardt, at first a corps commander, succeeded to the command of Hoth's Armored Group, which was later designated as the Third Panzer Army. Reinhardt was made a full general in 1942, and became the Commander in Chief of Army Group Center in August 1944. The defendant Salmuth was also promoted from corps to army command, and became a full general in 1943. From June 1942 to August 1943, he commanded successively the Seventeenth, the Fourth, and the Second Armies on the Eastern Front; from August 1943 to August 1944, he commanded the Fifteenth Army in France. The defendant Hollidt, who led the 50th Infantry Di-

vision into southern Russia, rose rapidly to corps command in January 1942, and became Commander in Chief of the Sixth Army in March 1943; in that same year he, too, became a full general. The defendant von Roques remained an army group rear area commander until December 1942, when he went back into retirement. The defendant Woehler served as Chief of Staff of the Eleventh Army—first under von Schobert and later under von Manstein—until February 1943. After a brief period of service as Chief of Staff of Army Group Center, and as a corps commander, he was promoted to the rank of lieutenant general and made Commander in Chief of the Eighth Army in southern Russia in August 1943, and in December 1944, became the Commander in Chief of Army Group South.

COUNT TWO—BELLIGERENTS AND PRISONERS OF WAR— THE "COMMISSAR ORDER"

On 8 June 1941, two weeks before Russia was attacked, Field Marshal von Brauchitsch, Commander in Chief of the German Army, issued an order, entitled, "Directives for the Treatment of Political Commissars," to the commanders of the army groups and armies then deployed along the Russian border awaiting the word to attack. This order read in part as follows (*NOKW-1076, Pros. Ex. 57*):*

"When fighting bolshevism one cannot count on the enemy acting in accordance with principles of humanity or international law. In particular it must be expected that the treatment of our prisoners by the political commissars of all types, who are the true pillars of resistance, will be cruel, inhuman and dictated by hate.

"The troops must realize—

"(1) That in this fight it is wrong to treat such elements with clemency and consideration in accordance with international law. They are a menace to our own safety and to the rapid pacification of the conquered territories.

"(2) That the originators of the asiatic barbaric methods of fighting are the political commissars. They must be dealt with promptly and with the utmost severity.

"Therefore, if taken while fighting, or offering resistance, they must, on principle, be shot immediately.

"For the rest, the following instructions will apply:

"I. Theater of Operations.

* * * * *

* Document reproduced below in section VII A2.

"2. Political commissars in their capacity of officials attached to the enemy troops are recognizable by their special insignia—red star with an inwoven golden hammer and sickle on the sleeves * * *. They are to be segregated at once, i.e., while still on the battlefield, from the prisoners of war. This is necessary in order to deprive them of any possibility of influencing the captured soldiers. These commissars will not be recognized as soldiers; the protection granted to prisoners of war in accordance with international law will not apply to them. After having been segregated they are to be dealt with."

If there were no other proof to be offered in this proceeding except that concerning the issuance and execution of this one order, it would still more than justify the presence in this dock of every defendant except Sperrle, Blaskowitz, and Schniewind. The Commissar Order was formulated by the defendants Lehmann and Warlimont; issued by Warlimont to 19 different offices of the Wehrmacht, including the OKH; distributed by the OKH to the defendants Leeb, Kuechler, Hoth, and Woehler; passed on to Reinhardt, Salmuth, Hollidt, and Roques; and executed by units subordinated to them. Reinecke saw to its enforcement in the prisoner of war camps under his jurisdiction.

The Commissar Order was not the exclusive achievement of any one man. On 6 May 1941, the OKH forwarded to Warlimont a proposed draft of an order for the treatment of commissars. Warlimont submitted this draft to the defendant Lehmann in the Legal Department of the OKW. Lehmann approved the draft with minor changes and returned it to Warlimont the next day. On 12 May, Warlimont submitted the draft, as approved by the Legal Department, to Jodl together with a memorandum in which he stated (884-PS, *Pros. Ex. 55*):*

"* * * Military functionaries (commissars) are to be dealt with according to proposal OKH. They are not recognized as prisoners of war and are to be liquidated at the latest in the transient prisoner of war camps, and under no circumstances to be removed to the rear area."

On 6 June, Warlimont issued the order to the supreme commands of the army, navy, and air force, with instructions that it was to be distributed in writing to army and air fleet commanders and orally to lower commands. Two days later Brauchitsch passed down the order with the amendment that, "Political commissars attached to the troops should be segregated and dealt with by order of an officer, inconspicuously and outside the battle zone proper." From army group to army, army to corps, corps to divi-

* *Ibid.*

sion, division to regiment—down went this order for murder until it was well known over the entire eastern front.

During the proceedings before the International Military Tribunal, a veritable parade of German field marshals and generals took the witness stand and testified under oath that the German army commanders in Russia refused to pass down the Commissar Order to their troops—or passed it down with oral instructions to disregard it—and that the order was never carried out. At the time this testimony was given, most of the documents relevant to this question were not available to the prosecution. The evidence to be offered in this proceeding will, we believe, expose the true nature of the testimony given by the German generals before the IMT. The Commissar Order was issued to be obeyed, not to be ignored, and we shall present conclusive evidence that it was generally distributed and extensively carried out on the Eastern Front.

The minutes of a conference held on 17 June 1941, among generals of the LVII Corps of Panzer Group 3, then under the command of Hoth, contain the following notation: “The Fuehrer has ordered that Russian political commissars are to be ‘liquidated’. This order is to be disseminated orally only”. The minutes of a meeting of the commanding officers within the 454th Security Division, subordinated to the defendant Roques, indicate that by 20 June, the order had reached regimental level. At this meeting, the commanding general lectured his subordinate officers on the essential points of the Commissar Order directing them to report, through channels, on action taken against political commissars.

On the morning of 22 June 1941, the invasion of Soviet Russia started. By the evening of the same day, the XXVIII Corps of the Sixteenth Army in Army Group North, under the defendant von Leeb, was already in possession of a report listing executions carried out under the Commissar Order. One of the divisions in Hoth’s Panzer Group 3 reported to higher headquarters the same evening that one commissar and one civilian had been killed. In the following weeks and months, the enforcement of the Commissar Order became routine work in the operations of the advancing German armies, and references to killings of commissars constantly occur in the reports from subordinate to higher headquarters. They make monotonous reading and differ more in the numbers of executed commissars than in their wording. A report of one of the divisions in Kuechler’s Eighteenth Army stated on 26 October 1941: “Nothing particular to report. 16 commissars shot. 61st Infantry Division—Ic.” The Commissar Order itself explicitly required the submission of reports on its execution through regular army channels. Whatever those defendants may conjure up

in their defense they can never honestly say that they did not know that this criminal order was being executed by units subordinated to them.

COUNT TWO—BELLIGERENTS AND PRISONERS OF WAR— MURDER AND ILL-TREATMENT GENERALLY

As we have just seen, the murder of commissars, who were uniformed members of the Red Army, was the task of the German combat troops. The fate in store for commissars was soon noised abroad in the Red Army, and naturally some of the prospective victims went to some pains to conceal their identity from the Germans in the event of capture. General Halder noted in his useful diary on 1 August 1941, with respect to the "treatment of captured commissars," that they were, "for the most part identified only in prisoner of war camps". (*NOKW-3140, Pros. Ex. 1359.*) This possibility the Wehrmacht had anticipated. The defendant Reinecke, as chief of the OKW department with jurisdiction over prisoner of war matters, entered into an agreement with the notorious Reinhard Heydrich, chief of the Security Police and Himmler's right hand man. This agreement covered not only the apprehension of commissars, but also the weeding out from Russian prisoners of certain types and categories regarded as "subversive", which was to be accomplished by the special SS gangs called, "Einsatzgruppen." * The first two paragraphs of the Reinecke-Heydrich agreement read:

"The armed forces must immediately free themselves of all those elements among the prisoners of war who must be regarded as Bolshevist influences. The special situation of the campaign in the East therefore demands special measures, which have to be carried out in a spirit free from bureaucratic and administrative influences, and with an eagerness to assume responsibility.

"While the regulations and orders of the prisoner of war system were hitherto based exclusively on considerations of a *military* nature, now the political goal must be attained, namely to protect the German people from Bolshevist agitators and to gain a firm grip on the occupied territory at the earliest possible moment."

The agreement further provided that "suspects" and "intolerable elements" among the prisoners should be segregated by the Einsatzkommandos and surrendered to them by the camp officials.

* United States vs. Otto Ohlendorf, et al., Case No. 9, Vol. IV.

The fate of the prisoners selected is made all too clear by Heydrich's instructions that:

"Executions must not be carried out in or near the camp. If the camps are in the Government General close to the frontier, prisoners are to be moved to former Soviet territory, if possible, for special treatment."

In execution of this agreement, on 8 September 1941, the defendant Reinecke issued an order stating that:

"Selection according to the political attitude of the prisoners of war will be carried out by the Einsatzkommandos, which are especially assigned to this task. Close collaboration with the Einsatzkommandos is the duty of camp commanders."

This injunction to murder helpless human beings was distributed to over two hundred separate agencies including the prisoner of war camps in Germany and Poland, and to the armed forces commanders in Riga, the Ukraine, and Norway. Pursuant to these orders, many thousands of Russian prisoners were shot dead by the Wehrmacht and the Einsatzkommandos.

Other portions of Reinecke's order of 8 September 1941, stated:

"The Bolshevik soldier has therefore lost all claim to treatment as an honorable opponent, in accordance with the Geneva Convention * * *. The order for ruthless and energetic action must be given at the slightest indication of insubordination, especially in the case of Bolshevik fanatics.

"Insubordination, active or passive resistance, must be broken immediately by force of arms (bayonets, butts, and firearms) * * *. Anyone carrying out the order who does not use his weapons, or does so with insufficient energy, is punishable * * *. No warning shot must ever be fired * * *. The use of arms against prisoners of war is as a rule legal."

This order, like the "Commando Order", was reviewed by Admiral Canaris. In this case, too, Canaris' opinion that the order was a flagrant violation of international law was clearly given:

"The Geneva Convention for the treatment of prisoners of war is not binding in the relationship between Germany and the U.S.S.R. Therefore only the principles of general international law on the treatment of prisoners of war apply. Since the 18th century these have gradually been established along the lines that war captivity is neither revenge nor punishment, but solely protective custody, the only purposes of which is to prevent the prisoners of war from further participation in the war. This principle was developed in accordance with the view held by all armies that it is contrary to military tradition to kill or injure helpless people * * *. The decrees for the treatment of So-

viet prisoners of war enclosed are based on a fundamentally different viewpoint."

The order just quoted, played an important part in the IMT's conviction of General Keitel, who noted on Canaris' memorandum of protest, "These objections arise from the military concept of chivalrous warfare. This is the destruction of an ideology. Therefore, I approve and back the measure".

Such orders as these inevitably resulted in cruelty and inhumanity on a wide scale. As the IMT stated in its judgment:* "The treatment of Soviet prisoners of war was characterized by particular inhumanity. * * *. It was the result of systematic plans to murder." These "systematic plans" were embodied in orders from the OKW, prepared by Warlimont and Lehmann; orders for the transfer of prisoners to concentration camps, signed by Reinecke; OKH orders, distributed by field commanders, for the shooting of Russian soldiers in uniform on the pretext that they were "guerrillas"; orders for the killing of escaped prisoners upon recapture, a flagrant violation of the usages of war; and the other similar directives.

The crimes which such orders resulted in are reflected in numerous reports from combat units under the command of these defendants. Thus on 15 September 1941, a report by one of the divisions under the defendant Roques stated: "Numerous escapes of Russian prisoners of war from rail transports have been reported. Guard battalion 703 captured 13 and shot them." On 13 April 1942, a report from the rear area of Army Group North, then commanded by Kuechler stated: "Five escaped prisoners of war shot to death." A security division in the rear area of the defendant Leeb's Army Group reported on 10 October 1941 (NOKW-2428, *Pros. Ex. 273*): "In the course of a patrol eleven Red Army soldiers arrested. Seven of them were shot after detailed interrogation, four were handed over to the prisoner camps." A report of 8 October 1943, to the Eighth Army, commanded by the defendant Woehler, shows that the principles of the "Commando Order" were also applied in the East (NOKW-2914, *Pros. Ex. 1460*): "Seven parachutists were captured. Of these, six destroyed. All members of the Third Airborne Brigade."

These reports, selected almost at random, show the frighteningly routine character of these brutalities. What they do not show on their face is their utter stupidity. It was a cardinal objective of the German occupation of the Ukraine to "pacify" and "exploit" the land in the interests of German economy; such open mistreatment and slaughter of Russian soldiers was bound to frustrate the Germans' own objectives. A young German lieutenant

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 229.

on the Intelligence Staff of Rundstedt's Army Group South reported on 8 October 1941, that the German occupation policy in the Ukraine was being seriously obstructed because, "prisoners were shot when they could not march any more, right in the middle of villages and some of the bigger hamlets, and the corpses were left lying about; and the population saw in these facts that which they did not understand and which confirmed the worst distortions of enemy propaganda."

The fate of enemy soldiers who survived their capture and were taken to prisoner of war camps under the control of the OKW and the army groups and armies commanded by these defendants was even more appalling. The defendants will undoubtedly stress the circumstances which prevailed during the campaign in Soviet Russia, and admittedly it is difficult to handle large masses of prisoners under primitive conditions of transportation. But the situation was of the defendants' making, not the prisoners', and even making every allowance, the story is a horrible one. The reports of disease and death among the Russian prisoners reach such astronomical figures that it is difficult to bear in mind that human lives are being tabulated.

A series of entries in the war diary of Kuechler's Eighteenth Army, at that time subordinated to Leeb's Army Group North, reveals that on 4 November 1941, about ten prisoners were dying every night from exhaustion; 5 days later "the prisoners' rations are so insufficient that one hundred men will die daily". On 28 November, it was estimated that "all the inmates of Camp East will have died within 6 months at the latest," and that, "in the camp at Pleskau [Pskov], out of twenty thousand about one thousand perish weekly from exhaustion."

A report of 21 December 1941, from a prisoner of war district in Roques' command, utilizing the percentage of mortality among the prisoners up to that date, estimated that if those mortality rates persisted, within a year the percentage of deaths at four camps would be 28 percent, 87 percent, 82 percent, and 80 percent, respectively. With prisoner of war camps thus transmuted into charnel houses, it is not surprising that, as of 1 May 1944, the prisoner of war organization of OKW reported that out of a total of 5,163,381 prisoners taken since the beginning of the war, 845,128 had died in installations under the control of OKH, and 1,136,236 in those under the OKW. This total of nearly two million did not include prisoners handed over by the Wehrmacht to the Einsatzgruppen and other extermination units.

MR. NIEDERMAN: Your Honors, it is ironical that one of the most damning indictments of Germany's treatment of Soviet prisoners was written by Alfred Rosenberg, a defendant before

the IMT, and himself certainly no angel, who on 28 February 1942, in a letter to Keitel, stated:

“The fate of the Soviet prisoners of war in Germany is a tragedy of the greatest extent. Of 3.6 millions of prisoners of war, only several hundred thousand are still fully able to work. A large part of them have starved, or died because of the hazards of the weather. Thousands also died from typhus. It is understood, of course, that there are difficulties encountered in the feeding of such a large number of prisoners of war. Anyhow, with a certain amount of understanding for goals aimed at by German politics, dying and deterioration could have been avoided to the extent described. For instance, according to information on hand, the native population within the Soviet Union are absolutely willing to put food at the disposal of the prisoners of war. Several understanding camp commanders have successfully chosen this course. However, in the majority of cases, the camp commanders have forbidden the civilian population to put food at the disposal of the prisoners, and they have rather let them starve to death. Even on the march to the camps, the civilian population was not allowed to give the prisoners of war food. In many cases, when prisoners of war could no longer keep up on the march because of hunger and exhaustion, they were shot before the eyes of the horrified civilian population, and the corpses were left. In numerous camps, no shelter for prisoners of war was provided at all. They lay under the open sky during rain or snow. Utterances such as these have been heard: “The more of these prisoners die, the better it is for us * * *.”

The prosecution is unable to improve on Rosenberg’s description.

COUNT THREE—CIVILIAN—MURDER AND ILL-TREATMENT GENERALLY

MR. MCHANEY: As we mentioned earlier, the Germans had very far-reaching economic and political designs with respect to the Russian territories overrun by the Wehrmacht. In order to exploit these areas for the benefit of Germany, it was planned to “pacify” and crush all opposition, to obliterate the Soviet political system and set up new regional political administration, and to convert the productive resources of the land to the uses of the Third Reich. The economic features of this program were primarily entrusted to civilian agencies, but the Wehrmacht, too, played its part. The Germans were most concerned with natural resources

and factories, but they did not overlook making arrangements, under Rosenberg, for the systematic plunder of valuables and cultural objects. The army was directed to assist Rosenberg's plunder gangs, and the evidence will show that Reinecke, Woehler, Roques, and other defendants were helpful to the Rosenberg units. We will postpone further discussion of the evidence establishing the Wehrmacht's participation in plunder, destruction, and devastation in violation of the laws of war until its actual presentation in this proceeding.

For, revolting and criminal as were these plundering activities, and terrible as was their effect on the standard of living—and indeed on life itself—within the occupied territories, they were as nothing compared to the outright slaughter of the inhabitants, which began as soon as the German troops set foot on Russian soil. The Tribunal should not assume that the cause of this slaughter was any innate and peculiar brutality of the German soldiers. True it is that among the troops were many who had been filled with poisonous Nazi racial ideology and myths, and who therefore entered gladly into the diabolical spirit of the occasion. But the primary responsibility for these millions of murders rests on the men in this dock, and on others who, unless dead, might fittingly be sitting there too. What happened in Russia was deliberately contrived among the leaders of the Wehrmacht, and was embodied in orders, which were circulated throughout the German Army and which brought about the carnage that ensued.

Within the limits of available time, we can only sketch the outlines of this criminal structure. The basic order was issued by the OKW some five weeks before the invasion, on 15 May 1941, to the commanders in chief of the army, navy, and air force. This order, in unmistakable terms, legalized the murder of Russian civilians by German troops. It accomplished this in two ways. Firstly, for the punishment of Russian civilians suspected of unfriendly acts, the order substituted summary execution by the troops for action by military courts. After a sweeping mandate directing the troops to "take ruthless action against any threat from the enemy population", the order stated (*C-50, Pros. Ex. 594*):*

"1. Until further notice the military courts and the courts martial will not be competent for crimes committed by enemy civilians * * * .

* * * * *

"3. Likewise all other attacks by enemy civilians on the armed forces, its members and employees, are to be suppressed

* Document reproduced below in section VII B 1b.

at once by the military, using the most extreme methods, until the assailants are destroyed.

"4. Where such measures have been neglected or were not at first possible, persons suspected of criminal action will be brought at once before an officer. This officer will decide whether they are to be shot.

"On the orders of an officer, with the powers of at least a battalion commander, collective despotic measures will be taken without delay against localities from which cunning or malicious attacks are made on the armed forces, if circumstances do not permit quick identification of individual offenders."

The second part of the order was even more vicious; it guaranteed German soldiers against any fear of punishment for crimes committed against the civilian population, unless such crimes were likely to undermine the discipline of the army. This was accomplished as follows (*C-50, Pros. Ex. 594*):

"1. With regard to offenses committed against enemy civilians by members of the armed forces and their employees, prosecution is not obligatory even where the deed is at the same time a military crime or offense.

"2. When judging such offenses, it must be borne in mind whatever the circumstances that the collapse of Germany in 1918, the subsequent sufferings of the German people, and the fight against national socialism which cost the blood of innumerable supporters of the movement, were caused primarily by Bolshevik influence and that no German has forgotten this fact.

"3. Therefore the judicial authority will decide in such case whether a disciplinary penalty is indicated, or whether legal measures are necessary. In the case of offenses against inhabitants it will order a court martial only if maintenance of discipline or security of the forces call for such a measure."

Warlimont and Lehmann were in a unique position to know the purpose of this order—the so-called "Barbarossa Jurisdiction Order"—inasmuch as they formulated it. Drafts of the order were prepared by them and the OKW as early as April 1941. These drafts were discussed (as his diary shows) with the Chief of the Army General Staff, General Halder, on 6 May; it appears that Halder wished to preserve the jurisdiction of the military courts over minor offenses. On this suggestion, the defendant Lehmann commented:

"I have objections to this * * * now that we have decided to take this step, it has to be done completely, otherwise there is the danger that the troops will push off matters uncomfortable to them to the courts, and in that way (and those will

be the doubtful cases) the contrary of that which we want to achieve will occur."

It would have been indeed difficult to have made murder and crime easier or more praiseworthy to the German soldier. This order, so terrible in its intent and in its consequences, was distributed by the defendants Leeb, Kuechler, Hoth, Reinhardt, Salmuth, Hollidt, Schniewind, Roques, and Woehler, to units under their command. The results were, of course, precisely what was ordered. The diary of the Rear Area of the Second Army under Salmuth reported (*NOKW-2361, Pros. Ex. 749*):*

"16 October 1942. A large number of suspects were shot in the neighboring villages.

"4-18 October 1942: Several hundred suspects were seized and liquidated in the localities.

"19 October 1942: A great number of suspects were shot in the mopping up * * *."

Another report on 19 February 1943, to Reinhardt's 3d Panzer Army described the following action (*NOKW-2346, Pros. Ex. 710*):

"In order to keep bands from resettling in this territory * * * the population of villages and farms in this area were killed without exception to the last baby. All homes were burned down. Cattle and victuals were confiscated and taken from this area."

Naturally enough, such bestial behavior enraged the Russian civilian population. No doubt they would have fiercely opposed the German invaders in any event; but the conduct of the German troops under these orders won thousands of recruits to the Russian partisan bands which began to form behind the German lines. The German Army's attitude toward these partisans was based on Hitler's statement of 16 July 1941 (*L-221, Pros. Ex. 598*):

"The Russians have now ordered partisan warfare behind our front. This partisan warfare has some advantage for us; it enables us to eradicate everyone who opposes us."

It would be futile here even to attempt to enumerate the criminal orders and atrocities perpetrated in the course of antipartisan warfare. The defendants will plead that the partisans, too, committed atrocities, and will attempt to justify their actions on the basis of military necessity. They will, no doubt, make involved legal arguments that the partisans were not entitled to the rights of belligerents under the laws of war, despite the fact that a di-

*Document reproduced below in section VII B2.

rective issued on 11 November 1942, by Warlimont's office stated (NOKW-067, *Pros. Ex. 650*):

"The partisans are military resources of the opponent, organized before the war and expanded during the war. Nevertheless, we do not recognize them * * *. They are led by officers and commissars who have been left behind systematically, and who are currently transported by air. Their battle assignment is directed by the Russian Military Supreme Command according to uniform plan."

But the true answer to these arguments is much simpler. German troops, wherever they appeared, by murder and ill-treatment of the civilian population, by conscription to forced labor, by plunder of property and food, by extermination of Jews, government functionaries, and the intelligentsia, forced the inhabitants of the occupied countries to defend themselves. For the defendants to say that they were privileged to slaughter the population in retaliation for measures of self-protection provoked by their own acts, is preposterous. Precisely analogous is the plea of the burglar that he had to kill the house owner in self-defense. One will not be heard to defend himself on the ground that his circumstances required him to commit a crime when such circumstances were of his own making. That the resistance of the civilian population was the inevitable result of the Wehrmacht's own crimes is put beyond all doubt through the following report, dated 31 July 1942, on the development of the partisan movement, directed to the commanders of all army groups and armies in the East:

"The requisitioning of horses and vehicles by the German Armed Forces and the lack of agricultural machines had a very bad effect on the cultivation of the land * * *. The resentment resulting from this, which is fostered by the Bolshevik agitators, has repeatedly found expression in the utterance: 'Stalin at least left us one cow in the shed, but the Germans even take that * * *.'

"* * * when recruiting for labor allocation in Germany first started, the most incredible rumors, as already mentioned, were spread about the fate of the conscripted persons. When it was even said that the former Red Army soldiers would be put into prisoner of war camps, masses of them left their places of work and went into the woods, where they joined partisan bands. The great number of prisoners of war who died on the march to the prisoner of war camps, the conditions, and the high death rate in the camps themselves, had not remained a secret, and the former Red Army soldiers lived in constant fear, therefore, that one day they would have to suffer the same fate."

The prosecution wishes to stress once more that the German troops were deliberately incited to commit these atrocities by the defendants and the other army leaders. There is today hardly a single German general, who, if willing to talk frankly, will not admit that these orders, quite apart from being criminal, were a military blunder of the first magnitude. But blunder or no blunder, there is no difficulty in fixing the primary responsibility for these incredible outrages. That responsibility lies on the German military leaders who issued orders, of which the following, promulgated by the defendant Hoth on 17 November 1941, is a good example:

“ * * * stronger than ever we carry in us our faith in a turning point of history, when the German people have been given the leadership in Europe on the strength of their superior race and their achievements. * * * Compassion and softness towards the population would be completely out of place * * * especially the soldiers must understand the necessity of harsh measures against elements alien to our people and our kind * * * a sound feeling of hatred is not to be suppressed but must be strengthened.”

COUNT THREE—CIVILIANS—THE EXTERMINATION OF THE JEWS

It is only too well known that anti-Semitism was a cardinal point of Nazi ideology. Throughout the early years of the Third Reich, the Jews of Germany were subjected to ever more severe restrictions, persecutions, and barbarities, and by 1939 life in Germany was all but intolerable for them. The war presented Himmler and Heydrich with what, to them, was a golden opportunity to carry these doctrines to their logical and terrible conclusion the extermination of all Jews in Germany and in the countries overrun by the Wehrmacht. Deliberate extermination of Polish Jews began soon after the conquest of that unhappy country. But practical problems soon cropped up. No one, at least for centuries, had ever tried to eradicate an entire national or racial group, and it soon became apparent that such a project was an ambitious undertaking, which required time and money, and manpower and planning. With the invasion of the Soviet Union, the project was for the first time put on a truly systematic footing.

The triggermen in this gigantic program of slaughter were, for the most part, the members of the so-called Einsatzgruppen of the SS. The Einsatzgruppen were special purpose units composed of personnel drawn from the Security Police, Security Service (SD), Gestapo, and other elements of the SS. Subordinate formations

of the Einsatzgruppen were called Einsatzkommandos and Sonderkommandos. They were formed shortly before the invasion of Russia to accompany the troops for the express purpose of exterminating elements of the population considered "inferior" and "politically or racially undesirable". The chief victims of this genocidal program were the Jews, and it can be conservatively estimated that nearly one million Russian Jews were slaughtered by the Einsatzgruppen. For instance, a report from the Higher SS and Police Leader for south Russia states that in 1942, in the 3-month period between September and December, 363,211 Jews were killed in that area alone. Other "racially undesirable" and "inferior" peoples included the gypsies. The Einsatzgruppen were also entrusted with the mission of dismantling the existing regional and local governmental agencies, in order to make way for the new governmental administration to be established by the Germans. This "dismantling" was to be accomplished by killing all "political undesirables" including Communist Party functionaries and other officials of the local administration who might conceivably be hostile to the German invaders.

In another courtroom of this building, a trial of the leaders of these SS murder squads is now drawing to a close,¹ but in this dock sit ten men who made their work possible—Leeb, Kuechler, Hoth, Reinhardt, Salmuth, Hollidt, Roques, Reinecke, Warlimont, and Woehler. The carnage spread by the Einsatzgruppen could never have occurred without the permission and full support of the Wehrmacht. As the IMT found:²

"Nor did these special units (Einsatzgruppen) operate completely independently of the German Armed Forces. There is clear evidence that leaders of the Einsatzgruppen obtained the cooperation of army commanders."

It is quite clear to any person with the slightest knowledge of military matters that the Einsatzgruppen could never have even entered Russian territory without the permission of the Wehrmacht, and could not have survived there more than a few hours without its support. They were, in fact, administratively attached to the Wehrmacht; each of the four Einsatzgruppen was attached respectively to the three army groups and to the Eleventh Army (which entered Russia from Rumania), and the subordinate formations of the Einsatzgruppen (called Einsatzkommandos and Sonderkommandos) were attached to the subordinate military formations—the armies and corps. To suggest that the Einsatzgruppen and their subordinate units could have moved around throughout the operational area of the army and could have killed

¹ United States vs. Otto Ohlendorf et al., Case No. 9, Vol. IV.

² Trial of the Major War Criminals, *op. cit. supra.*, vol. I, p. 250.

over a million human beings, without the full knowledge of the army commanders, is not only false but grotesquely false. Yet this was, again, the burden of much testimony before the IMT by numerous German field marshals and generals. We have come to learn that documentary proof is somewhat more reliable, and such proof is at hand.

On 28 April the Commander in Chief of the German Army, Field Marshal von Brauchitsch, distributed to all army group and army commanders, by whom in turn it was passed down to divisional level, a directive concerning the employment of the Einsatzgruppen in occupied Russia. It read in part as follows:

“The Commander in Chief can prevent the utilization of the special detachments in those parts of the army territory where such utilization would interfere with operations.

“The Sonderkommandos of the Security Service (SD) carry out their missions upon their own authority. They are subordinate to the armies with reference to order of march, rations, and quarters. Disciplinary and legal subordination under the chief of the Security Police and Security Service is not influenced by this. They receive their technical instructions from the chief of the Security Police and SD, but if occasion should arise, are subordinated to restrictive orders of the armies with reference to their activity.

“A representative of the chief of the Security Police and the Security Service will be employed in the area of each army for the central direction of this detachment. He is required to bring to the attention of the Commander in Chief of the Army, promptly, the instructions sent to him by the chief of the Security Police and Security Service. The military commander is empowered to issue the instructions which are necessary to avoid an interruption in operations; they take precedence over all other instructions.

“In the realm of their mission, and upon their responsibility the Sonderkommandos are empowered to take executive measures concerning the civilian population. They are required hereby to cooperate with intelligence most closely. Measures which could have an effect on army operations require the approval of the Commander in Chief of the [respective] Army.”

Thus, the Einsatzgruppen could enter the operational area only by virtue of agreement with the army, were to receive their supplies and transport from the army commanders and had to report to them before and after each action, and all of their activities were subject to restrictive orders by the army commander.

We have previously described the close cooperation between the Einsatzgruppen and the army in the murder of political com-

missars and the screening and execution of "undesirable" prisoners in the camps under the jurisdiction of Reinecke. The cooperation in the wholesale slaughter of Jews was no less close. Here, for example, is a portion of the order which the defendant Roques, as Rundstedt's Rear Area commander, issued on 20 March 1942, with respect to the support which his subordinate units were to furnish to the Security Service units:

"A detachment of the Security Service * * * is deployed in the territory of the Rear Area Army Group South. The detachment has the duty to execute tasks of a security political nature by direct order of the Reich Leader SS [Himmler], and on its own responsibility. All authorities are ordered to assist the detachment in the execution of its duties (transportation, billeting, supply) * * *. Active participation of members of the armed forces in executions is not permitted * * *. Authority to protest against measures of the Security Service detachment by subordinate military authorities does not exist."

But the participation of the army in the horrible work of the Einsatzgruppen went beyond administrative support. Although some commanders aware of the bestial character of the work which they were performing through the Einsatzgruppen, refused to allow army troops to participate in the executions, this was not the invariable rule. Thus, Einsatzgruppe A, operating under Leeb's Army Group North, noted in one of its reports: "From estimated figures, about 19,000 partisans and criminals, that is in the majority Jews, were shot by the Wehrmacht up to December 1941." But even where the Wehrmacht itself did not participate in the executions, the troops assisted by arresting the unfortunate Jews and turning them over to the Einsatzgruppen to do the dirty work of mass killing. For example, a teletype of 16 October 1941, to the Rear Area of the Eleventh Army, of which Woehler was Chief of Staff, reported that 75 Jews had been turned over to the Security Service.

The reports of the Einsatzgruppen make terrible reading. The report of Einsatzgruppe A, attached to Leeb's army group, for the first four months of the war, after reciting that "it must be stressed from the beginning that cooperation with the armed forces was generally good," proceeds to recite the difficulties which the group encountered in inducing "native anti-Semitic forces * * * to start pogroms against the Jews." According to the report, it was recognized that:

"* * * it was desirable that the Security Police should not put in an immediate appearance, at least in the beginning, since the extraordinary harsh measures were apt to stir even

German circles. It had to be shown to the world that the native population itself took the first action by way of natural reaction against the suppression by Jews during several decades * * *. To our surprise it was not easy, at first, to set in motion an extensive pogrom against the Jews."

Finally, however, the Einsatzgruppen succeeded in persuading a Lithuanian partisan unit to start a pogrom in Kovno (the capital of Lithuania) "in such a way that no German order or German instigation was noted from the outside." The report continues:

"During the first pogrom in the night from 25-26 June, the Lithuanian partisans did away with more than 1,500 Jews, setting fire to several synagogues, or destroying them by other means; and burning down a Jewish dwelling district consisting of about 60 houses. During the following nights 2,300 Jews were eliminated in a similar way. In other parts of Lithuania similar actions followed the example of Kovno, though smaller, and extending to the Communists who had been left behind.

"These self-cleansing actions went smoothly because the army authorities, who had been informed, showed understanding for this procedure."

Such bestialities were not confined to the area under Leeb's command; they were general over the entire front. Thus, an activity report of 31 August 1941, from a subordinate unit of the Third Panzer Army under Reinhardt, contained the following:

"Operation against Jews (east of Panemune) up to now * * * resulted in the capture of 21 Jews, partly armed, 26 women, and 5 Jewish children.

"* * * after brief skirmish 19 Jews and one Russian captured. Simultaneously 24 women and 7 children of Jewish origin arrested * * *.

"The Jews were turned over to the Security Service in Jurbarkas."

The ancient Russian city of Kiev had not seen such carnage since its destruction by the Mongols centuries before. A subordinate unit of Einsatzgruppe C, which was attached to von Rundstedt's army group, reported on 28 September 1941, that it had entered Kiev, and that the city was mined. The report continued:

"As has been proved, Jews played a prominent part. Allegedly 150,000 Jews living here * * *. Execution of at least 50,000 Jews planned. Wehrmacht welcomes measures and demands drastic procedure."

The story is continued by a report dated 12 October 1942, by the 454th Security Division, which was subordinated to the defendant Roques as Rundstedt's Rear Area commander:

"The total population [of Kiev] is estimated at about half the normal number, i.e., about 400,000.

"The Jews of the city were ordered to present themselves at a certain place and time for the purpose of numerical registration and housing in a camp. About 34,000 reported, including women and children. After they had been made to give up their clothing and valuables, all were killed; this took several days."

These documents do not make pretty reading, but we are constrained to quote one more example. Einsatzgruppe D, under the notorious Ohlendorf, was attached to the Eleventh Army, of which the defendant Woehler was Chief of Staff. Beginning in September 1941, the Commander in Chief of the Eleventh Army was General (later Field Marshal) von Manstein, who assured the IMT from the witness box that he had no knowledge of the murder of 90,000 Russian Jews by Einsatzgruppe D, to which Ohlendorf had confessed. We have seen that the Einsatzgruppen were under strict orders from the army, to keep the Intelligence Division of the Army Staff informed as to their doings. How meticulously they complied with this directive is shown by the following report, dated 16 April 1942, to the intelligence officer serving under Woehler on the staff of the Eleventh Army:

"For your information we beg to report the following about the activities of Einsatzgruppe D in the Crimea, and in the area Taganrog-Fedorovka, and about the intended further operation. "I. Activities since February 1942.

"The results of the cleaning up of the Crimea during the time covered by this report are in detail as follows:

"(1). The Crimea is freed of Jews. Only occasionally some small groups turn up, especially in the northern areas. In cases where single Jews have been able to camouflage themselves by means of forged papers, etc., they will, nevertheless, be recognized sooner or later, as experience has taught. The population, which in the majority has welcomed the measures taken against the Jews, is assisting in this task by making denunciations. This is only natural considering the fact that the Crimea has been a special domain of Jewry. About the development and the influence of Jewry in the Crimea a detailed report is attached."

We submit to the Tribunal that there can be no blacker crime than what we have just described. The evidence of complicity in that crime of ten of the defendants is conclusive. We regret to add that there is no evidence that the defendants, at that time, were in the slightest degree ashamed of what they were doing. On the contrary, they took active steps to convert their own troops to a frame of mind not only tolerant of, but sympathetic to these incredible mass murders. On 1 October 1941, the defendant Sal-

muth, in an order of the day to his corps, stated that (*NOKW-1683, Pros. Ex. 745*), "the battle against bolshevism requires an energetic and ruthless attack, especially against Jews, the chief carriers of bolshevism"; and on 17 November 1941, the defendant Hoth issued the following order to his troops (*NOKW-2537, Pros. Ex. 623*):

"Every trace of active or passive resistance, or of any kind of machinations by Bolshevik-Jewish agitators, are to be immediately and pitilessly rooted out. The necessity of severe measures against elements foreign to [our] people and kind must be understood precisely by the soldiers. These circles are the spiritual pillars of bolshevism, the informers for its murder organization, the helpers of the partisans. It consists of the same Jewish class of people which has done so much harm to our Fatherland by its activity hostile to the people, and anti-cultural, which promotes anti-German currents in the whole world, and which wants to be the bearer of revenge. Their annihilation is a law of self-preservation. Any soldier criticizing these measures has no memory for the former demoralizing traitorous activity, lasting for years, carried on among our own people by Jewish-Marxist elements."

WAR CRIMES AND CRIMES AGAINST HUMANITY— SLAVE LABOR

Under count two of the indictment, the defendants are charged with utilizing prisoners of war held by the Germans as an unrestricted source of labor for purposes forbidden by the laws of war. Under count three of the indictment, they are charged with the deportation and enslavement of millions of members of the civilian populations of the occupied countries. These crimes are recognized as such not only under international law, but by the ordinary penal laws of all civilized nations. The Hague and Geneva Conventions contain numerous applicable provisions with respect to the treatment of prisoners of war and the civilian population of occupied countries. The definitions of "war crimes," and "crimes against humanity," in Article II of Control Council Law No. 10, specifically prescribe, "murder, ill-treatment, or deportation to slave labor or for any other purpose, of civilian populations from occupied territories, murder or ill-treatment of prisoners of war," and, "extermination, enslavement, deportation, imprisonment," and "other inhumane acts committed against any civilian population, or persecution on political, racial, or religious grounds." The evidence under these charges relates primarily to the use and abuse of prisoners of war, and the enslavement and deportation

to slave labor and mistreatment of many thousands of civilians in and from the countries occupied by Germany.

The slave labor program of the Third Reich was the revolting offspring of the aggressive wars which it planned and waged. It was designed to keep the German war machine rolling at the frightful expense of the freedom and lives of millions of persons. The tyranny and brutality of Nazi conquest was felt by them not only in their own homelands of France, Belgium, Holland, Russia, Poland, Czechoslovakia, and Denmark. Hundreds of thousands suffered the additional misery of being torn loose from homes and families and shipped to Germany into slavery, and often to a miserable and premature death.

Eastern Europe

In the East, the use of prisoners of war and civilians in German armament production was widespread. As early as 4 July 1941, representatives of the defendant Reinecke were conferring with other Reich agencies concerning the utilization of Russian prisoners in war industries. On 31 October 1941, an OKW order, drafted by Warlimont, pointed out that the lack of workers was increasingly felt in the armament industry and that this could be remedied by a large-scale use of Russian prisoners. This order directed that work units were to be used particularly for coastal fortifications.

All of the defendants who held field commands in the East, made available large numbers of prisoners for employment in prohibited labor. For example, on 2 March 1942, Army Group North under Kuechler, in reply to a request from the rear area for more prisoners, stated (*NOKW-2284, Pros. Ex. 200*):

"It is not possible at this time to transfer any more prisoners of war as requested by telephone, since the available prisoners of war able to work are needed for employment on road construction, and in the armament industry, and/or plants in the operational theater. Requesting agencies have not been satisfied fully up to this point."

A report of 6 April 1942, to OKH by the Eleventh Army, of which Woehler was Chief of Staff, said (*NOKW-1329, Pros. Ex. 204*): "For labor in the armament factories at home, 5,529 prisoners of war were deported to the prisoner of war organization of the OKW."

The employment of these prisoners was attended by all manner of ill-treatment, but those retained for work in the operational area of these defendants were particularly unfortunate. In October 1941, Brauchitsch ordered that mine fields were to be cleared only

by Russian prisoners of war. But the defendants Leeb and Kuechler had been practicing this flagrant violation of the laws and customs of war for at least two months prior to the Brauchitsch order. An order of 3 August 1941, by the 217th Infantry Division in the Eighteenth Army under Kuechler, within Army Group North commanded by Leeb, stated (*NOKW-1527, Pros. Ex. 180*):

“In order to counteract the enemy’s malicious manner of fighting in the mining of roads and rivers, the greatest attention is ordered at the places mentioned. Prisoners are to be used for removing the mines.”

Other such orders were issued by Hoth and Reinhardt. Russian prisoners were also used in the operational area for the digging of trenches, construction of fortifications, military highways, railroads, and the loading of ammunition.

The fate of the civilian population in the east was equally harsh. On 21 July 1941, the defendant Roques, as commander of the Rear Area of Army Group South, ordered that Jews be selected for compulsory labor and that they be required to wear identifying armbands. A similar order was issued on 11 December 1941, by a corps subordinated to the Eleventh Army, of which Woehler was Chief of Staff, stated that (*NOKW-1682, Pros. Ex. 429*):

“All Jews of both sexes have to identify themselves by wearing a white armband with the Star of David on both arms
* * * all Jews of both sexes between 16 and 50 years of age are at the disposal of the head of the community for performing labor.”

This Nazi racial policy, however, did not alone produce sufficient workers for the German war machine. In order to obtain the required number of workers, all pretext of voluntary recruitment was abandoned, and labor conscription became progressively more inhuman as the fortunes of war turned against the Wehrmacht. Thus, in October 1942, the defendant Reinhardt as commander of the Third Panzer Army, ordered the use of “the entire able-bodied civilian population,” for digging trenches. In March 1943, the defendant Hollidt issued an order stating that “Russian men and women have to be employed ruthlessly for the construction of defenses.” By June 1943, over 50,000 civilians were reported to be working on fortifications in the area of the Sixth Army under Hollidt. In May 1943, Reinhardt ordered that all men between the ages of 16 and 50, and all women between 16 and 40, capable of bearing arms and of working be rounded up for labor allocation. By August 1943, 17-year old children were ordered to be drafted, and by September, in the frenzied search for workers, the Rear Area commander of Kuechler’s Army Group North ordered seizing all available laborers and driving them on forced marches to the

rear, with only bread for food. The order specified that children over 10 were considered as laborers.

Along with this brutal extension of the slave labor program to include old men, women, and children, the drafting measures also increased in harshness. Reinhardt would not permit the granting of short leaves to laborers, for the purpose of packing their belongings, for fear they would escape, which he said "must be prevented at all costs". In a top secret order of 2 January 1944, to be destroyed after reading, he exhorted his men to act ruthlessly in the drafting of civilians, and put this pencilled notation on the order: "Any measure is justified and urgently desirable if it produces a quick and considerable increase in the number of civilians working for us."

These documents do not begin to reflect the human misery and degradation involved in this slave traffic. Early in 1944, engineer and fortress units of Reinhardt's Third Panzer Army reported that many of the civilians pressed into slave labor by them were escaping. Upon inquiry, one of the subordinate units set forth the reasons why so many of these miserable laborers sought refuge in flight:

"The high figures of Russian laborers who have escaped from their places of work * * * is explained * * * by the following reasons * * * :

"They were partly apprehended in the streets and taken away under the pretext that they would go on a 2 or 3 days' job, without winter clothes, shoes, mess-kit, or blankets * * *. Married couples were taken away, the children being left behind by themselves * * * .

"Men and women were allocated by the labor camp Vitebsk who had been unfit for work for a long time. Among them were 78-year-old, blind, or paralyzed people; and people suffering from heart disease who collapsed under the least strain; epileptics; women with child up to the ninth month; people suffering from severe abscesses with pus running out of their shoes; and some with frozen limbs * * * ."

Western Europe

In the West as in the East, prisoners of war and civilians alike were forced to labor under inhumane conditions for the German war machine. The defendant Reinecke was one of the principal figures in obtaining thousands of French prisoners of war to labor in the German armament industry, especially in aircraft plants. On 17 September 1942, Warlimont forwarded a Fuehrer decree to the three branches of the Wehrmacht, the Commander in Chief

West (Rundstedt), and the armed forces commander in Holland, which stated that:

"The extensive coastal fortifications, ordered by me [Hitler] for the area of Army Group West, require the employment and the greatest effort of all labor available in the occupied territory. The allocation, so far, of indigenous workers is insufficient. In order to increase it, I order for the occupied territories the introduction of compulsory service and the prohibition of changing the assigned place of work without permission of the competent authority."

The army cooperated actively with the so-called recruiting commissions of the Sauckel slave labor organization and the SS in the conscription and deportation of slave labor to Germany. On 25 January 1943, Rundstedt, as Commander in Chief West, ordered all units subordinated to him to support the work of these commissions. And on 7 June 1943, the defendant Sperrle, at that time Deputy Commander in Chief West, stated in a report forwarded to the OKW that (*NOKW-997, Pros. Ex. 473*):

"According to a report from the military commander in Belgium and northern France it has again occurred, in spite of orders to the contrary, that German agencies, without being entitled to do so, recruit workers within the area of the military commander of Belgium and northern France * * *. Through such procedure these workers for the most part were lost to recruitment for Germany. I shall examine to what extent military authorities are involved in this prohibited recruiting."

Sperrle's cooperation with the civilian master of the slave labor program, Fritz Sauckel (who was convicted by the IMT solely on slave labor charges and sentenced to hang) was such that Sauckel was moved to say at a meeting of the Central Planning Board on 1 March 1944, that (*R-124, Pros. Ex. 450*): "Field Marshal Sperrle assisted my task with fervor." A few years earlier, during 1941 and 1942, units of Air Fleet 3, subordinated to Sperrle, were using Russian prisoners of war in construction work on airfields and fortifications in the West.

On 1 August 1944, the defendant Blaskowitz, as commander of Army Group G in France, issued the following order (*NOKW-564, Pros. Ex. 1631*):

"The entire able-bodied male population convicted of cooperating with bands of the resistance organizations * * * or which may be designated as suspect and/or sympathizing, is to be sent in a body to reception camps to be prepared by the military commander in France. From there they are to be transported to the Reich for labor allocation."

And ten days later, Blaskowitz passed down a further order stating that:

“Everywhere that centers of resistance are established, or the formation of guerrilla bands is discovered, all male residents fit for military service between the age of 16 and 55, physicians excepted, shall be arrested regardless of their present occupation and made ready for shipment to Germany * * *.”

GENERAL TAYLOR: If it please Your Honors. The wide scope of the subject matter of this case has made it quite impossible to set forth the evidence in any detail within the compass of this presentation. We have sought only to outline the charges. And the same limitations of time and space rule out any full analysis of the legal matters which the defense will, no doubt, suggest in due course.

As to the basis for counts one and four of the indictment, we wish merely to make a few brief preliminary observations. That the wars and invasions, launched by the Third Reich with the participation of these defendants, were aggressive in character is the law of this case. The IMT has so held in its judgment, and Article X of Military Government Ordinance No. 7, under which this Tribunal is established, provides that:

“The determinations of the International Military Tribunal in the judgments in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities, or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder, and shall not be questioned except insofar as participation therein or knowledge thereof by any particular person may be concerned.”

Thus, our starting point is that the invasions and wars of aggression charged in the indictment were planned and did occur in violation of international law. The only question at issue under counts one and four of the indictment, therefore, is the extent to which the defendants knowingly participated in these invasions and wars of aggression.

The necessary degree of connection with these crimes in order to establish the guilt of the defendants is to be determined by paragraph 2 of Article II of Control Council Law No. 10, and in the light of recognized principles of criminal law. Paragraph 2 sets forth that an individual shall be found guilty of the crimes defined in Law No. 10 if he was (a) a principal, or (b) an accessory, or if he (c) took a consenting part therein, or (d) was connected with plans and enterprises involving the commission of the crime, or (e) was a member of an organization or group connected with the commission of the crime. A further provision of this para-

graph, applicable only with respect to crimes against peace, states among other things that the holders of high military (including General Staff) positions in Germany are deemed to have committed such crimes. This provision, we believe, is not intended to attach criminal guilt automatically to all holders of high military positions such as these defendants. It does require, however, that the fact that a person held such a position be taken into consideration together with all the other evidence in determining the extent of his knowledge and participation.

It is the position of the prosecution that crimes against peace, as in the case of most crimes, require *knowing participation* in the crime; both an act and a state of mind. The act is the extent of participation of the defendants in the planning, preparation, initiation, or waging of wars of aggression and invasions. The state of mind is the knowledge on the part of the defendants of the aggressive aims of Hitler and the other leaders of the Third Reich, including themselves, towards other countries. It is not necessary to show that the defendants believed that military force would necessarily be used to achieve such aims if threats would suffice. Thus, the IMT said:¹

“The defendant Raeder testified that neither he, nor von Fritsch, nor von Blomberg, believed that Hitler actually meant war, a conviction which the defendant Raeder claims that he held up to 22 August 1939. The basis of this conviction was his hope that Hitler would obtain a ‘political solution’ of Germany’s problems. But all that this means, when examined, is the belief that Germany’s position would be so good, and Germany’s armed might so overwhelming that the territory desired could be obtained without fighting for it.”

That crimes against peace are susceptible of commission by military leaders is established by the specific language of Law No. 10 already described, and by the weighty precedents of the IMT’s convictions of Keitel, Jodl, Raeder, and Doenitz. In its discussion of the General Staff and High Command, the IMT further set forth that it had heard much evidence as to the participation of military officers in the planning and waging of aggressive war, and that² “This evidence is, as to many of them clear and convincing”.

For the sake of clarity, however, it must be emphasized that those defendants are not accused on the ground that they are soldiers. They are not accused merely for doing the usual things a soldier is expected to do, such as making military plans and commanding troops. It is, I suppose, among the normal duties of

¹ *Ibid.*, p. 191.

² *Ibid.*, p. 273.

a diplomat to engage in negotiations and conferences, to entertain at dinner parties, and to cultivate goodwill toward the government he represents. The leaders of the German Foreign Office, now on trial before another of these Tribunals, are not indicted for doing these things. It is an innocent and respectable business to be a locksmith; but it is none the less a crime, if the locksmith turns his talents to picking the locks of neighbors and looting their homes. The accusation in all these cases here in Nuernberg, where crimes against peace are charged, is that in performing the functions of diplomats, politicians, soldiers, industrialists, or whatever the defendants happen to be, they planned and waged wars of aggression. It is no defense for those who committed such crimes to plead that they practice a particular profession.

It is perfectly legal for military men to prepare military plans to meet national contingencies, and such plans may legally be drawn whether they are offensive or defensive in a military sense. It is perfectly legal for military leaders to carry out such plans and engage in war, if in doing so they do not plan and launch and wage illegal aggressive wars. There may well be individual cases where drawing the line between legal and illegal behavior might involve some difficulties. That is not an uncommon situation in the legal field. But we do not believe that there is any such doubt or difficulty here.

The military defendants will undoubtedly argue that they are pure technicians. This amounts to saying that military men are a race apart from and different from the ordinary run of human beings—men above and beyond the moral and legal requirements that apply to others, and incapable of exercising moral judgment on their own behalf.

In the nature of things, planning and executing aggressive war is accomplished by agreement and consultation among all types of a nation's leaders. And if the leaders in any notably important field of activity stand aside, or resist, or fail to cooperate, then the criminal program will at the very least be seriously obstructed. That is why the principal leaders in all fields of activity share responsibility for the crime, and military leaders no less than the others. As the IMT stated in its judgment:*

“Hitler could not make aggressive war by himself. He had to have the co-operation of statesmen, military leaders, diplomats, and business men. When they, with knowledge of his aims, gave him their cooperation, they made themselves parties to the plan he had initiated.”

The defendants will no doubt object strenuously to the notion that aggressive war is a crime. Their mentor, General von Seeckt,

* *Ibid.*, p. 226.

wrote in 1928 that¹ "the question of war guilt will be asked after each war; it is the question, who started the war which means who attacked first. It will always be answered according to the point of view of the interested person and—according to the winner". This comfortable view, that it is impossible to tell who started a war, is a very convenient trend of thought for the German military caste, who have started one war after another throughout the past century. But it does not square with the proof available in this case, and it does not square with the view of international law generally acknowledged to be necessary if civilization is to be protected against its destruction from within. As an eminent authority on international law has recently written, in connection with the judgment of the IMT:²

"* * * the precedent will not stand still. If we do not strengthen it and move it forward, it will slide backward. Inaction by the whole society of nations from now on would constitute a repudiation of the precedent with the consequence that the last state of the world would be worse than the first. It would constitute an assertion that * * * who is guilty of endangering the international public repose is *not* to be treated as a criminal."

Nor is it any defense to these charges to emphasize, as the defense no doubt will, that personal relations between Hitler and the generals were often strained, and in particular that Hitler distrusted the General Staff and the senior army officers. No doubt this is quite true. Hitler, as well as being a man of unusual, if malignant, capacities, was an incredibly vain and self-centered man, who could not abide to acknowledge that other people had abilities which he himself lacked. Aware of his own lack of military education, he scoffed at those who possessed it, though he loved nothing better than to play at map maneuvers with favorite soldiers, such as Rommel. But Hitler did not by any means single out the generals as sole object of his derision; the other professions fared no better. Hitler had no engineering education, but was fascinated with construction problems, and delighted to plan imagined cities and design gigantic buildings with a favored architect, Albert Speer. But hear him on the subject of engineers as reported by one who noted down much of Hitler's private conversation:³

¹ Von Seeckt, "Gedanken eines Soldaten" [A Soldier's Thoughts] p. 15.

² Phillip C. Jessup, *The Crime of Aggression and the Future of International Law*, vol. LXII, *Political Science Quarterly* No. 1, p. 4 (March 1947).

³ Hermann Rauschning, *The Voice of Destruction*, (New York, G. P. Putnam's Sons, 1940), p. 24.

"Engineers are fools. They have an occasional idea that might be useful, but it becomes madness if it is generalized." Industrial leaders met with a similar fate at his hands:¹

"I shall not be deceived by these captains of industry either! Captains indeed! I should like to know what ships they navigate! They are stupid fools who cannot see beyond the wares they peddle! The better one gets to know them, the less one respects them."

So it is not very meaningful to say that Hitler did not admire the generals. He did not admire much of anybody except himself. And in any event, the point is quite irrelevant. The question here is not one of personal likes and dislikes, but of acts. If these defendants and their fellows did not give Hitler their trust, they certainly lent him their active and energetic collaboration and put their talents at his disposal. They swore an oath of loyalty to his person. They built him a gigantic war machine. Under his political leadership, they provided the military leadership which guided this machine on its course of conquest in Europe. They used the machine to perpetrate the most catastrophic crimes in the modern history of the profession of arms.

Indeed, as we sought to stress at the outset, the points of friction between Hitler and the generals served only to underline their complete agreement on fundamentals. The most important points of the Nazi Party program were cardinal objectives of the military leaders long before Hitler became well known. Points one and three—"the unification of all Germans in the greater Germany," and, "land and territory for the sustenance of our people," were merely a restatement of traditional Pan-Germanism, of which the German militarists were the effective core. Point two was the abrogation of the Versailles Treaty; toward that objective the militarists had made great strides long before Hitler came to power. Point four excluded the Jews from German citizenship. But Jews had long been excluded from the Officers' Corps, and von Seeckt's official biographer boasted that,² "the Army resisted the penetration of Jewish blood". Finally, point twenty-five of the program called for "the formation of a strong central government in the Reich". This was completely in line with the traditional faith of the officers' corps in authoritarianism, and led logically to dictatorship.

So it is not difficult to understand the reasons which underlay the alliance between Hitler and the generals, and why the generals made the Wehrmacht a main pillar of the Third Reich. This alliance was based upon many opinions and objectives common to

¹ *Ibid.*, p. 21.

² Von Seeckt, "Aus meinem Leben," [Of My Life] (1938) p. 62.

both parties, and, more than anything else, upon faith in war as a means of attaining one's objectives, and, indeed, as a normal and admirable part of life. This faith has been repeatedly expressed in the writing of German military leaders for nearly two centuries. If we listen for the last time today to the words of von Seeckt on this subject, we hear him remarking with delight in 1928, upon the,¹ "relationship between Leonardo da Vinci's sketch book and the sketches of King Frederick for his maneuvers. The genius at work." Eight years later he tells us:²

"War is the highest pinnacle of human effort. It is the natural and last step of evolution in the history of mankind. War is the father of all things, and at the same time the preparer of the end of an epoch, or a people, in order to become the father of a new development * * *. The war is born by the will, conducted and elevated to its purest perfection."

And therefore, shocking and incredible as is the evidence in this case, there is nothing herein that should come as a complete surprise to any one who understands the history and ideology of the German Officers' Corps. Men who believe in war are not likely to take a strong stand in opposition to invading the neutrality of Belgium, Holland, or Norway. An Officers' Corps whose military manual scoffs openly at the laws of war is not likely to take a strong stand in opposition to even the most outrageous criminal measures called for by their leaders. A profession which for decades has rigorously excluded Jews, has already made progress towards understanding the reasons for their eradication. No matter how much they may throw up their hands in feigned horror, they will not be found ready to risk much in opposition; nor, even, will they be unwilling to lend it support, if what they conceive to be "larger objections" so require.

Much of this case is summarized in a single document, consisting of an order issued by the defendant Kuechler, as Commander in Chief of the Eighteenth Army, on 22 July 1940. The conquest of France, in which the Eighteenth Army participated, had just been triumphantly concluded a few weeks prior, and orders had just been given to transfer the army to Poland near the Russian frontier. Some very unpleasant things were going on in Poland at that time, and Kuechler feared that the soldiers might hear "rumors and false information" concerning the true meaning and justification of these things. So he wrote in an order to his troops (*NOKW-1531, Pros. Ex. 587*):³

¹ Von Seeckt, *A Soldier's Thoughts* [Gedanken eines Soldaten], p. 151.

² *Ibid.*, p. 160.

³ Document reproduced below in section VII B 4.

“The following reasons for the transfer of the 18th Army and its subordinate units to the east from the west will be announced to the troops:

“1. Protection of the newly acquired living space in the East.

“2. Demonstration of our military strength to the Poles.

“3. Preparation for the establishment of peacetime garrisons in the Eastern Territory for army units. [2] “I should like to stress the necessity for ensuring that every soldier of the army, particularly every officer, refrains from criticizing the ethnical struggle being carried out in the Government General [that is Poland], the treatment of the Polish minorities, and of the Jews, and the handling of church matters. The final ethnical solution of the ethnical struggle which has been raging on the eastern border for centuries calls for measures of such harshness and directness that one application of them will suffice.

“Certain agencies of the Party and the State have been charged with the conduct of this ethnical struggle in the East.

“Soldiers must, therefore, remain aloof from these matters, which are the concern of other agencies. Neither are they to involve themselves in such matters by criticism.”

Many facts of this case are reflected in these few paragraphs—the proud mention of “living space,” which had been acquired by the sword; the scornful references to Poles and Jews; the indoctrination of the troops to accept the most brutal treatment of these “inferior” peoples. Already the seeds are being sown in preparation for the savagery which would be demanded of the German soldier the next year; already the language is not of mere war but of “ethnical struggles,” which are “raging on the eastern border.” This is not a soldier’s order. It is a vicious, foul effort to brutalize the troops. It points as accusingly as ever a document can to where the deepest guilt lies for the crimes that we have rehearsed today. And so it comes to pass that the only way in which the behavior of the German troops in the recent war can be made comprehensible as the behavior of human beings, is by a full exposure of the criminal doctrines and orders which were pressed upon them from above, by these defendants and others. In that exposure, the German people themselves have the greatest stake.

B. Opening Statement for the Defendant von Leeb*

DR. LATERNSEER: May it please the Tribunal,

In view of Germany’s plight today, a plight brought about by proper to proceed on the assumption that only history will render

* Tr. pp. 1757–1814, 12 April 1948.

the guilt of her National Socialist leadership, it might perhaps be an objective verdict on the measures taken against her military leaders.

There must be special reasons, indeed, if, at the very beginning of such a trial, these measures meet with determined criticism, criticism voiced in the countries of our former enemies, and by men whose judgment carries some weight in the world.

I have before me the evening edition of the *News Chronicle*, dated 20 February 1948. In this issue the noted British military critic, Liddell Hart, comments on this Nuernberg Trial. "I was rather amazed," he states, "to see the names of some of the people whom the Americans have decided to bring to trial." Referring to my client, Field Marshal von Leeb, he goes on to write: "The case of von Leeb, who also is charged with the planning of aggressive war, is equally curious. He was the principal proponent of the defensive theory in the German Wehrmacht. He was one of those who tried to dissuade Hitler from invading Russia, and he was regarded by Hitler as an 'incorrigible anti-Nazi'."

I propose to set forth and prove that Field Marshal von Leeb is not guilty of the crimes he is charged with, but that, on the contrary, his is a personality of great integrity and honesty of conviction in the best military tradition.

I. The German Officers' Corps and War

In my opening statement delivered in the preceding trial of Field Marshal List,¹ I had cause to point to the manifest tendency on the part of the prosecution in some measure to substitute general assertions for the proof needed to establish facts and for an exact analysis of legal problems. I have gathered from the *Opinion and Judgment*, dated 19 February 1948, that the prosecution's attempt to simplify the case in such a manner for their purposes did not escape that Tribunal.² In the present trial, too, we have so far only had a caricature of the picture which an unbiased examination of the true facts could disclose. This is, generally speaking true of the historical and psychological background into which the prosecution has fitted the individual counts and charges of the indictment and of the motives imputed by them to the defendants. The picture drawn in the prosecution's opening statement is colored by assertions, picked from decades of propaganda, alleging both a craving for war on the part of the German Officers' Corps and their contempt, rooted in principle, of international law. The facts in this respect, however, warrant a substantially different picture.

¹ Defendant in the case of *United States vs. Wilhelm List, et al.*, Case No. 7, Vol. XI.

² *United States vs. Wilhelm List, et al.*, Case No. 7, Vol. XI.

If we examine in the light of historical facts the prosecution's contention that German military leaders throughout the last century instigated one war after the other, we shall at once note that it is incorrect.

On the promise that the prosecution disregards the wars of the Napoleonic era, I may start with the Russo-Turkish War in 1854, in which neither Russia nor Germany took part, as the event and date inaugurating the turbulent century which the prosecution has in mind. First of all, a glance at any history book is sufficient to verify the statement that quite a number of wars have since been waged in Europe and outside it without Germany's participation. Throughout the whole century, from 1815–1914, Prussia and/or Germany participated in warlike conflicts only for a short period of six years, from 1864–1870. These conflicts were the Wars of 1864, 1866, and 1870–71, immediately preceding the creation of the German Reich.

The War of 1864, between Denmark on the one hand and Prussia and Austria on the other, was solely due to the fact that on 18 November 1863, the King of Denmark incorporated the German Duchy of Schleswig into the Danish State.

The War of 1866 between Prussia and Austria was a conflict within the League of German States. History proves that such conflicts of necessity tend to precede the inner consolidation of states with almost the force of natural law. What distinguished this case was merely the relatively late date of this conflict. It differed from the contemporary American Civil War merely in being less bloody and shorter, and having a different result, to wit, the dissolution, and not the consolidation, of the political structure within the framework of which it had been waged.

It is well known that the Franco-Prussian War of 1870–71 was initiated and declared by France on the idle pretext of frustrating the candidacy of a German prince aspiring to the Spanish throne, and that, in keeping with the traditions of French policy, it aimed at preventing the formation of a unified German State.

The unified German Reich drew the logical conclusion after this war, built up a strong army in view of Germany's vulnerable position in the center of Europe, and thus maintained peace for a long time.

In a speech made in New York in March 1946, former Secretary of State Byrnes said: "Weakness provokes aggression." Germany acted on this principle after the War of 1870, and made herself strong. The result was a peaceful period of 43 years. Yet the prosecution describes as militarism the existence of strong armed forces which secured peace for nearly half a century.

Only in 1914, did the neighboring states feel themselves strong enough and drove the *entente cordiale* to war. Every historian worthy of note knows this fact today.

As early as 1912, the German General Staff in a memorandum analyzed the political situation as follows: "Russia understandably wishes to become the predominant Slav power in Europe by defeating Austria; France wishes to regain lost provinces and to have her own back on Germany; Britain, with the aid of her Allies, wishes to rid herself of the nightmare of German naval power." And, as one ought to add, to eliminate German commercial competition. Germany only wanted peace, a desire which can be readily understood as Germany in those conditions was on the best way toward attaining a very strong economic position in the world. Militarily, German policy from 1870 on was entirely keyed to defense. Economic expansion took place in conjunction with other powers.

The First World War was unleashed by shots fired in the Balkans. We know that the same danger is again threatening from that area, the only difference being that the team on the one side has changed. Russia's far-ranging objectives, which have for so long made this area a focal point of politics, have remained unchanged.

The contention that the war guilt was solely Germany's has meanwhile been refuted by the documentary sources published, predominantly in Germany, Russia, Austria, and Britain. The First World War is now generally explained, as stated in the *Encyclopedia Americana*, as basically an economic struggle for the markets and raw materials of the world, "rather than in terms of the idealistic slogans advanced through political necessity at the time." *

Even the outbreak of the Second World War can only ostensibly support the prosecution thesis that the German officers' corps had brought about one war after another. The contribution made by the German officers' corps and its leaders merely consists in this:

By education and ethical convictions, they were unprepared for the means with which Hitler fought; they were not equal or able to cope with his demoniac personality; it was too late when they recognized the true nature of this man to whom they had—not quite voluntarily—sworn the oath of allegiance after the death of Reich President Hindenburg.

* "The First World War * * * is now generally explained basically as an economic struggle for the markets and raw materials of the world * * * rather than in terms of the idealistic slogans advanced through political necessity at the time." (*Encyclopedia Americana*, 1948 edition, vol. 28, p. 257.)

Only thus was it possible that Hitler secured for the execution of his plans the effective instrument of the German Armed Forces, destined by its military leaders solely for defense.

Hitler's political ideas, by the way, were not at all derived from the philosophy of the German officers' corps, but, as he himself constantly emphasized, from the struggle between the different nationalities in the old Austro-Hungarian state. It has been fateful for the German people that this man in 1914, was enabled to serve in the German Army as a foreigner, and the German Republic was at fault in tolerating for so long in Germany a man who by a trick acquired German citizenship as late as half a year before his appointment as Reich Chancellor.

The prosecution finally, in support of their thesis of the German officers' craving for war, employ the prestige that the German officer enjoyed within the state and the dominant role military things allegedly played in German life and thought.

The following considerations apply to this contention:

If, as the prosecution alleges, the soldier's calling was regarded as a special vocation in Germany, then this state of affairs was solely due to Germany's geographical, military, and political situation. The profession of arms regarded the defense of the state as its sole object. That the art of war was not practiced for its own sake, that war was not a natural and admirable part of life for the German officer, as asserted by the prosecution, is clearly shown by the fact that the profession of arms preserved peace for 43 years, that is two generations of officers, after the creation of the German Reich in 1871, at a time when the military profession's influence was most pronounced and the power of the Reich at its greatest.

Germany was situated in the heart of Europe. She had no protective boundaries. Perhaps an American citizen is particularly unlikely to be acutely aware of this weakness. For the United States has hitherto been shielded from every danger by world-wide oceans. Germany, however, had often been a theater of war. I remind Your Honors of the Thirty Years' War, the invasions of Louis XIV, and the aggressive wars of Napoleon.

President Truman in his great speech before Congress on 18 March 1948, declared:

"I believe that we have learned the importance of military strength as a means of preventing war. We have won the conviction that a sound military system is needed in time of peace if we want to live in peace."

These words clearly demonstrate the extent to which the military and political situation of a country influences its views in these matters and how it may also render military reinforcement

measures necessary in those quarters which used to denounce the same measures, when taken by Germany, as militarism.

One cannot do justice to the part played by the armed forces and the Officers' Corps in German life without realizing that Germany in the heart of Europe for a long time acted as a shock absorber, cushioning the impact of the natural pressure of the Slav masses and the very strong expansionist power of the Russian State, while at the same time she was threatened in the back by France which, in a 1,000 years' struggle, was able steadily to advance her frontiers eastward. This mission has now devolved on other nations and even today we can perceive the influence which this fact exerts on their military policy.

The character, thought, hopes, and sentiments of the officer are infallibly reflected in military literature. An unbiased examination of this literature will show that, as far as it is written by officers, it is purely technical, in many cases historical literature. By way of contrast to other countries, no glorification of war, let alone aggressive war, will be found in its pages. I am thinking, for instance, of the book by the Italian general, Douhet, who allots a decisive role to aggressive air warfare and hence glorifies it. Count Schlieffen, Moltke's successor and well-known Chief of the German General Staff before the First World War, on several occasions, told his students: "Even a victorious war is a national disaster." Moltke, the younger, Chief of the German General Staff at the start of the First World War, was even more extreme than his predecessor in his denunciation of militaristic trends of thought. General von Seeckt wrote in his book, *A Soldier's Thoughts* [*Gedanken eines Soldaten*], "A military commander's paramount task consists in securing his country against enemy attack." And Field Marshal Ritter von Leeb, who is charged before Your Honors, with the planning of aggressive war and a conspiracy against peace, before his retirement in the years between 1933 and 1938, while Commander in Chief of Army Group 2 in Kassel, wrote a book on defensive warfare embodying the results of his life's work.* This book has been translated by the Army of the United States and included as Volume 2 of their military classics.

I do not know on what grounds the prosecution base their contention that the German officer was inspired by the belief that war constituted a natural and admirable part of life and that this belief has been frequently expressed in the writings of German military leaders through almost two centuries.

Professor de Martens, the author of the Russian draft agreement on the laws and customs of war for the Brussels Confer-

* Ritter von Leeb, "Defense," Military Service Publishing Co., Harrisburg, Pennsylvania, 1943.

ence of 1874, who, next to Dr. Lieber, was the father of the modern laws of war, and who was Chairman of the Hague Peace Conference of 1899, has examined the literature of the various nations with respect to the reflections on war contained therein. The result he arrived at differs substantially from that attained by the prosecution. The advocates of war are not German generals, far from it, but above all the Piedmontese De Maistre and the celebrated French philosopher Proudhon for whom war is actually something divine.¹

The German contribution to the philosophy of war consists in the statement of the Prussian general and eminent student of war, *Clausewitz*, which has universal validity, that war is only a means, a political instrument, which powers use to obtain their objective. According to him, war is the continuation of politics with other means and possesses no quality peculiar to itself; both politics and war partake of the same nature.²

Clausewitz's perspicacious and objective mind has moulded generations of German officers. His book, "On War",³ has been included by the Army of the United States as Volume 1⁴ in the series of their military dossiers.

II. The German Officers' Corps and the Laws of War

The prosecution's charge that the German Officers' Corps has always displayed a nihilistic attitude towards the laws of war, and only paid lip service to the laws and customs of war, is as incorrect as their assertion that the German Officers' Corps has brought about one war after the other during the past century.

Professor de Martens also investigated the problem of the attitude displayed by various nations towards the laws of war. During the Franco-Prussian War of 1870-71, he followed events as a neutral observer in close proximity to the theater of war and carefully collected and examined such facts as were claimed by the one side

¹ De Maistre, *Soirees de St. Petersburg*, II, p. 20, Brussels 1844:

"War, being a global law, is divine in itself. War is divine in the mysterious glory which surrounds it and in the no less inexplicable attraction which draws us toward it ***. War is divine by virtue of the manner in which it is declared: how many of those regarded as the direct instigators of war are themselves pushed on by circumstance. War is divine in its results which are absolutely incomprehensible to the speculations of the human mind."

Proudhon, *La Guerre et la Paix* (War and Peace), Brussels, 1861, vol. I, pp. 30, 53, 62, 107: "War is divine, that is to say necessary for life, man, and society ***. War is our history, our life, our whole soul, it is legislation, politics, the state, the fatherland, the social structure, international law, poetry, theology. in fine, it is everything."

Both authors quoted according to de Martens', *La Paix et la Guerre* (Peace and War), Paris, 1901, pp. 5 and 8.

² Clausewitz, *Posthumous Works*, Berlin 1832, vol. I, p. 26 ff., vol. IV, p. 139 (as cited by de Martens, *op. cit. supra*, p. 25.)

³ Karl von Clausewitz, *On War*, translated from the German by O. J. Matthijs Jolles (Random House, New York, 1943).

⁴ Volume I of *Military Classics* is *Principles of War*, by Clausewitz (Military Service Publishing Co., Harrisburg, Pennsylvania, 1942).

or the other to constitute a violation of the laws of war. He did not find any attitude of German nihilism towards the laws of war. Rather, he came to the conclusion that events on both sides were a consequence of the fact that the belligerent parties could not reach an understanding about customs of war for which they claimed obligatory powers.¹

The French Government utilized justified German measures against partisans, called, "Defenders of the Fatherland," by the French, as the excuse for reprisals, and the Germans were caused by the violation of the laws of war by their opponents to apply the laws of war to the full.² Hostages were not killed on that occasion, as is expressly stated by Professor Garner³ and the Swiss Professor Pfenniger.⁴ With reference to the affair of Bazeilles, which takes the most prominent part in the alleged German crimes, Professor Spaight declared that the inhabitants violated the laws of war beyond any doubts, and the Bavarians, therefore, had an undisputed right to deal with the perpetrators summarily.⁵

Also the events in Belgium during the First World War which were not only objects for an anti-German propaganda, but also subjects of exacting investigations, were to a large extent attributable to the different concepts of the two parties with reference to the law applicable to belligerent participation by the civilian population. It is correct, however, that the Germans shot hostages in Belgium in several instances during the First World War and, in the case of Dinant, probably unjustly.⁶ But a conclusion that the laws of war were disregarded cannot be derived from this. American Military Tribunal V has stated in its judgment, dated 19 February 1948, in the case against Field Marshal List and the other generals of the Southeast that according to the laws of war not only partisans and franc-tireurs may be shot, but also the killing of hostages is permissible in connection with illegal resistance activities.

If the prosecution wishes to reproach military writers for a nihilistic attitude toward the laws of war, then this desire would include, among Germans, first of all the Prussian General von

¹ de Martens, *op. cit. supra*, introduction p. viii, p. 92.

² de Martens, *op. cit. supra*, p. 92: "La consequence fatale de ces violations était, de la part des autorités allemandes, l'application du droit de la guerre dans toute sa regueur, et, de la part de celle de la France, un recours au représailles."

³ J. W. Garner, *International Law and the World War*, (New York: Longmans, Green and Co. 1920) vol. I, p. 309.

⁴ Dr. H. F. Pfenniger (Zuerich), *Penal Law and the Killing of Hostages*, in the *Journal for Austrian Law and Comparative Legal Sciences*, 1946, No. 3/4, p. 38, ff.

⁵ J. M. Spaight, *War Rights on Land*, (London: MacMillan and Co., Limited, 1911), p. 39: "The Affairs of Bazeilles 1. IX, 1870: But extreme as the punishment was, the inhabitants had undoubtedly broken the law of war in joining in the street fight, and the Bavarians had a clear war right to deal summarily with those taken red-handed in the action."

⁶ J. W. Garner, *op. cit. supra*, pars. 195, 196: Ascan Lutteroth, *Der Geisel im Rechtsleben* (*The Hostage in Legal Life*), (Breslau, Verlag von M. & H. Marcus 1922) par. 48.

Hartmann who declared himself against the written formulation of the laws in several articles which appeared in 1877, in the "Deutsche Rundschau." He confronted the idealism of war with the realism of war. "One might be tempted," writes Professor de Martens, "to believe that General Hartmann does not want to place any limits on martial power and no reins on the passions of an infuriated army, but this is not so. Far from it!" de Martens says:

"This military writer is not satisfied with recognizing the existence of certain customs of war, but he also ambitiously endeavors to achieve that the recognition thereof becomes a matter of honor and conscience for a civilized army. 'The character' says he, 'which in a subconscious manner has become property of a nation; the conscience, talking to the heart of man; duty, appearing as the unfailing law of life; obedience, towards orders which demand to be followed blindly; discipline, which tends to place limits on the actions of individuals—these are the forces which introduce elements of nature and reconciliation into the realm of war.' Finally, in the words of General Hartmann: 'It is necessary that the legal conscience and the first moral principles influence absolutely all acts of the belligerents.'"¹

So much for Professor de Martens regarding the attitude of that Prussian general.

Your Honors, I believe that such an attitude cannot be termed nihilistic. This very General von Hartmann was the German representative of that attitude towards laws of war which the prosecution has in mind when they talk about the nihilism of the German Officers' Corps.

In connection with General von Hartmann, the Swiss Colonel Rustow is usually mentioned. He had taken a position against the existence of the laws of war as early as one year prior to this, in his book, *The Policies and Usages of War*, which was published in 1876 in Zuerich. This Swiss officer went far beyond General von Hartmann's opinions. For him there existed neither a limitation of military power nor any usages of war. He maintained that in principle anything was permitted to the belligerents, and that under certain circumstances they could apply all means in order to gain the upper hand over their enemies.²

But also his opinion is moderate if compared with the attitude taken by the well-known lawyer, expert on international law, and

¹ de Martens, *op. cit. supra*, p. 45.

² de Martens, *op. cit. supra*, pp. 48, 49.

writer, M. Beach-Lawrence, in the United States,¹ opinions which Professor de Martens terms so monstrous that it is only by effort that one brings oneself to believe they have ever been uttered at all. This American lawyer declares himself against any attempt to alleviate the evil of war. The more unhappiness a war entails and the more the nations are forced to suffer by it, the better. "War," says he, "is a terrible scourge for humanity, but the nations generally suffer more from its consequences than from the immediate events. A war must be terrible in order to be short. Only under these conditions will it appear terrible to the nations and their rulers."²

Reading this, one is reminded of the leading principle of General Sherman of the American Civil War.³ "The people must be left nothing but their eyes to weep with over the war."

If one takes into consideration the effect, during the last war, that the application of aerial mines, bombs, and phosphorus against the civil populations of the German cities, and the even more terrible weapons of atomic warfare, had on the powers of resistance of the peoples concerned, one will have to concede that in any case the effectiveness of a realistic principle has been proved.

In the year 1874, a conference took place in Brussels, attended by the representatives of a large number of the German powers, aiming to alleviate, by a written formulation of its laws and usages, the suffering caused by war. The basis of their work was formed by the draft of an international agreement concerning laws and customs of war drawn up by Professor de Martens, grounded to a large extent on the instructions for the leadership of United States Armies in the field which Dr. Lieber had published in 1863, on orders by President Lincoln.

It does not seem to be generally known that this attempt to arrive at a written formulation of the laws of war did not fail because of the resistance of German military circles, but rather because of the prejudiced and negative attitude of the British Government. Their delegate had instructions not to participate in the debates in the conference, and, as Professor de Martens reports, he adhered to these instructions so conscientiously that he was not heard to utter a single word during the entire conference discussing the draft. "One has to put to oneself the question," continues Professor de Martens, "whether this expressive

¹ M. Beach-Lawrence in *Revue du Droit International*, VI, p. 526, and in *Albany Law Journal*, 9 January 1875. The same opinions were held by the French writer Morin (in agreement with de Martens, *op. cit. supra*, p. 69.)

² de Martens, *op. cit. supra*, p. 69.

³ Higgins, *War and the Private Citizen*, p. 65 (confirmed H. Lammasch, *The International Law after the War*, p. 22.)

silence of the English delegate did not perhaps compromise the result of the conference even more than his complete absence might have done.”¹

The so-called Brussels Declaration of 1874, which concluded this conference, was intended to form the basis for the new conference after examination by the individual governments. The final written formulation of the laws of war was envisaged as the aim of this new conference. On 20 January 1875, however, the British Government officially declared that they would in the future not participate in any negotiations having as their object the continuation of the work of the Brussels conference. The government was in agreement with the opinion of the majority of British lawyers, who, as for instance Professor Holland and Sir Travers-Twiss denied, categorically, the possibility of establishing customs of war exactly.

Professor Sheldon Amos stated at that time :

“As an Englishman I can only regret that my country, which up to now has always placed itself in the lead of any movement to help humanity and progress, has assumed a role in the Brussels conference which has brought about the paralyzing of suggestions and the distortion of the true nature of suggestions made to alleviate the terrible consequences of war.”²

In view of the negative attitude of the British Government, the written formulation of the laws of war was put off for 25 years. Only in 1899, did a slightly amended form of the Brussels Declaration become international law in the Hague Land Warfare Regulations.

At the first Hague Peace Conference of 1899 the British representative, General Ardagh, tried once again to prevent binding agreement between the powers in regard to the laws of war. In the session of 10 June 1899, he stated:

“It is our intention to include all articles and declarations which we consider reconcilable with the principles of international law, according to which we have up to now regulated our actions, into our military handbook as far as possible even verbatim.”³

The president of the conference, Professor de Martens, decisively opposed that stand.

¹ de Martens, *op. cit. supra*, pp. 108, 109.

² Oke Manning's Commentaries on the Law of Nations, ed. by Sheldon Amos (London, 1876), p. XLIV (as cited by de Martens, *op. cit. supra*, p. 67).

³ “Notre intention est d'incorporer dans notre Manuel d'Instruction, textuellement s'il est possible, tous les articles de la Déclaration que nous jugerons conformes aux principes de la loi internationale sur laquelle nous avons jusqu'ici réglé nos actes.” (de Martens, *op. cit. supra*, p. 128.)

The severe criticism with which British measures were met a short time afterwards during the Boer War, even in England, is well known. Their significance is not lessened by the fact that the Boer Republics were not among the signatory powers of the Hague Convention.

Frequently, mention is made of the so-called German Military Handbook, and the prosecution has mentioned it also in this case. They refer to Volume 31 of the individual essays, "War Usages in Territorial Warfare," which refer to *historical* events and were published by the general staff in the year 1902.

It is a mistake to assume, as indeed the prosecution does assume, that this constitutes a military service regulation, or that this pamphlet was intended to be a handbook in the sense of the American Rules of Land Warfare or the British Manual of Military Law. Even from the official designation of the series in which it was published, it follows that it was a historical publication concerning war. This pamphlet never had the significance attributed to it by the prosecution, and this cannot be demonstrated better than by the fact that as recently as 30 years ago it existed in Germany only in the form of a French translation. Professor Strupp remarked in a treatise published in the year 1920, "The German General Staff pamphlet, 'War Usages of Land Warfare', is now only available in the French language." ¹

It is certain that the opinions voiced in this pamphlet with reference to the results of the Hague Convention were just as incorrect as those which the British delegate uttered in the conference itself. It was established by an investigation committee of the German Reichstag after the First World War that the officer charged with the writing of the pamphlet completed it before the Hague Convention was ratified by Germany, and its text published in the Reich Legal Gazette in 1902.

If one mentions this German pamphlet one must not forget the Field Service Pocket Book, published about the same time by the British War Ministry. In it appears a summarization of the Hague Convention under the following title:

"These regulations are intended as general rules of conduct, so far as military necessities permit; they have not the force of an international convention." ²

Thus we find here not only the same opinion about the legal nature of the Hague agreement on Land Warfare as expressed in the pamphlet of the German General Staff, but also the same concept of the effect of military necessity on the law of war: that is,

¹ Strupp, "The International Law of Crime" in the Handbook of International Law, vol. III, par. 4 (1920), p. 178, footnote 4.

² Spaight, *op. cit. supra*, p. 7.

a recognition of the principle of military necessity which is so often referred to when the alleged nihilistic attitude of the Germans towards the laws of war is to be demonstrated, and which has so often played a part in post-war trials against German officers.

The inclusion of this principle in the manual of the British War Ministry was certainly factually justified because it had been recognized at the first Hague peace conference without, however, being generally included in the text of the Hague Convention. At this conference the German delegate, Colonel von Schwarzhoff, demanded the recognition of the limiting clause, “* * * *pour autant que les nécessités militaires de permettent*”, when Article 46 of the Land Warfare Regulations dealing with the protection of life, the rights of the family, etc., in occupied territories, was discussed. Professor Descamps retorted that it was contrary to the spirit of the procedure to introduce again and again a special remark concerning military necessity in the various paragraphs. One could not generally uphold the negation of individual reservations if, in a case of emergency, such a negation of individual reservations should occur. Also Professor Rolin advised Colonel von Schwarzhoff to refrain from the suggested appendage. The planned Article 46 contained only the *principle*, and it should not be weakened by an over-emphasized qualification. The German delegate thereupon withdrew his request and declared himself satisfied, provided it would not be established that the statement given by Professor Descamps was an applicable interpretation.¹

The reporter, Professor Rolin, said of this, in a report made to the General Assembly of the conference, which might be regarded as the official interpretation of the results of the conference:²

“Furthermore, it was stated by Colonel von Schwarzhoff without meeting any objection, these limitations cannot minimize in certain extreme cases, which might be regarded as a kind of legitimate defense, the freedom of action of belligerents.”³

As early as when the rights of occupation were discussed, Rolin declared that the occupation law contained only those legal barriers which the victor must not transgress, apart from cases of martial necessity.⁴

In accord with this statement made in the peace conference at The Hague, the principle of military necessity was also recognized

¹ Hague Records, III, 98 (according to Prof. Christian Meurer, The Laws of War of the Hague Conference, p. 11).

² As the President of the Conference, Professor de Martens, stressed in the Plenary session on 5 July 1899.

³ Hague Records, III, 44 (Meurer, *op. cit. supra*, p. 11).

⁴ Hague Records, III, 122 (Prof. Christian Meurer, The Laws of War in the Hague Conference, p. 13).

by the science of international law in Germany and to a certain extent also by writers on international law abroad.¹

Independent, however, from these judicial questions the attitude of German officers has always been dominated by the principle that decency of intentions and actions is the highest precept of his honor. Reproaches which were aimed against him stood always in connection with the participation of the hostile civilian population in the fight as opposed to international law, that is to say, they were based on the fact that the most important principle of modern law of war, the clear separation between armed forces and peaceful populations, was broken by their opponents. This is the principle which Professor Spaight has termed to be the highest triumph of the law of war.²

Also these officers who must defend themselves before you were not brought here by lack of character, as indicated by the prosecution. They are here because it has been their fate to arrive at situations, and in particular to be brought into situations, by the leadership for which, even today, the prosecution cannot suggest an escape that might have been open at the time.

Your Honors, these were situations which so far have not confronted the military leaders of any other country. They can only be judged, if one remembers again and again what state of affairs—created by a dictator of the worst kind—prevailed in Germany for 12 years.

Conditions which have placed decent people of the best families into tragic situations which alone—whatever the individual's solution might have been—have enabled a prejudiced prosecution staff, not solely guided by principles of justice, to initiate penal procedures.

As counsel for the defense of the General Staff and the OKW before the International Military Tribunal in Nuernberg, I have already given a short survey of the fate of the highest military leaders:—

¹ Rivier, *Principe du Droit des Gens*, p. 342 (Westlake, *International Law*, II, 1913, p. 9): "La nécessité de guerre peut excuser des rigueurs que les lois de la guerre, condamnent. Elle prime les lois de la guerre."

Bonfils-Fauchille, *Traité de Droit International Public*, in the translation by Grah (Meurer, *op. cit. supra*, p. 12): "A belligerent power may take any action without violating international law which in its opinion is required by martial necessities."

Garner, *op. cit. supra*: "It must be admitted that within reasonable limits this much criticized theory is legally defensible; that is to say, a belligerent is justified in disregarding a rule of war law whenever conformity to the rule would involve his destruction."

Hall, W. E., *A Treatise on International Law* (Oxford, 1924, 8th ed.), pp. 564-565: "It has been confessed that it is impossible to set bounds to the demands of military necessity; there may be occasions on which a violent repressive system * * * may be needed and, even in the end, humane; there may be occasions in which the urgency of peril might excuse excesses such as those committed by Napoleon in Italy and Spain. But it is impossible also not to recognize that * * * when others than the perpetrators are punished, the outrage which is done to every feeling of justice and humanity can only be forgiven where military necessity is not a mere phrase of convenience but an imperative reality."

² Spaight, *op. cit. supra*, p. 37.

Of 17 Field Marshals, active in the army, 10 were relieved of their positions during the war; 3 lost their lives in connection with the plot against Hitler on 20 July 1944; 2 died in combat; 1 became a prisoner of war. Only one remained in his position until the end of the war. Of 36 Generalobersten, 26 were removed from their positions, among them three who were executed in connection with the events of 20 July 1944, and two who were dishonorably discharged; 7 fell in battle; and only 3 remained until the end of the war.

If you, Your Honors, take into consideration that these disciplined officers were highly qualified and battle-proved leaders, then you will see from this impressive survey, which will be further expanded, that they were not blindly subordinated to Hitler, as charged by the prosecution, but rather made use of the possibilities at their disposal, existing in a dictatorship.

Whether German men with an attitude, as we shall prove it to you, Your Honors, will stand up to the judgment of history, will have to be established in the future by an objective recording of history. Prosecutors who see only a distorted picture, and want only to see such a picture, will no longer play a part in this.

III. Armament

We have heard very much about German armament after the First World War, but not a word of proof for the allegations of the prosecution that this armament was carried out on the part of German military circles for the purposes of an aggressive war.

In the judgment of the IMT, the Tribunal established that armament in itself was not a crime. It could only be a crime as part of the concrete plan for the execution of aggressive wars. Even if one follows the explanations of the IMT, such a plan made its appearance at the earliest at a conference at the Reich Chancellery in Berlin on 5 November 1937, when Hitler for the first time is said to have spoken of his intention in a somewhat tangible form. From this it follows that all measures taken before this time, at any rate as far as German military agencies participated, can only be understood from the general point of view as regards the attitude of the armed forces towards war. It is my intention to deal with this only from this point of view.

After the First World War, Germany was not in a position to defend itself. The Treaty of Versailles had only allowed an army of 100,000 men. They would have been overrun in any hostile attack. Germany was without defensive borders. It was surrounded by highly armed states, many of which had territorial demands. France had officially relinquished its claims on the territory left of the Rhine under heavy pressure by the British

and Americans. But in the heart of its politicians and military leaders this claim remained alive. For more than 4 years after the end of the war France occupied the Ruhr, and Czechoslovakia demanded the Glatz Mountain Plateau and Lausitz. In Poland the influential Korfanty Party openly demanded the annexation of Silesia, East Prussia, and Pomerania. At that time nobody held a protective hand over Germany.

German disarmament was not followed by disarmament of the signatory powers of the Treaty of Versailles as had been promised to Germany. In this situation not only military agencies but the entire German nation felt that it was a peremptory necessity to increase defensive power. Even Reich Chancellor Bruening, who certainly cannot be suspected of military tendencies or aggressive intentions, raised a demand for equal rights and equal security in 1932.

Nothing was to be expected from the disarmament commission and, therefore, preparatory measures were to be taken to defend Germany at least for a certain time against a possible opponent. The strength of the army and the navy remained unaltered. On the other hand, a border defense service was to be called up in case of a hostile attack in order to put up a first resistance. It had the character of an almost untrained militia. Friendly powers occupied themselves with weapons which had been denied Germany by the Treaty of Versailles. Questions of defensive economy were studied on the basis of methods abroad. From 1 April 1930, onwards, the transformation of seven into twenty-one divisions was attempted on paper as necessary security in the event of a hostile attack. It was established, however, that neither the number of experienced soldiers nor the armament was sufficient for this.

These measures may perhaps have been sufficient for meager defense for a limited time. To fight an aggressive war was impossible.

The measures were carried out with the knowledge, approval, and under the responsibility of the democratic Reich Government. The Reich took as the leading basis for its actions the fact that its opponents had not disarmed.

Hitler at that time was the man for the German military circles who transformed these realizations into action, the realizations that the increase of defense power was for Germany a requisite for self-preservation.

None of the signatory powers of the Treaty of Versailles raised objection. Foreign powers rather approved German armament. This approval is expressed in the naval agreement with England in 1935, and furthermore through the mutual appointment of

military attaches and the exchange of officers which occurred with a number of foreign states, among them also the United States.

The prosecution does not recognize the defensive character of the German armament. Their suggestion that the German military leaders had only armed in order to be able to carry out an aggressive war is not only not proved, but even incorrect.

Under the first commanders after the First World War, General von Seeckt, then called the chief of the army administration, no preparations were taken for a war or, even less, an aggressive war. From him a direct line leads to the Commander in Chief of the Army during the period of armament, General Freiherr von Fritsch. He, in particular, warned Hitler emphatically of a too hasty armament, of a one-sided solution of the Rhineland question, and on 5 November 1937, of the possible conflict with France and England. In accordance with this attitude he ordered that in the training of the army the defense was to be stressed. The training for aggression was neglected. Under General von Fritsch the construction of the West Wall and the defenses of the East, the defensive character of which no one can deny, was commenced. The great operational maneuvers which he led every year were always based on the defense of a hostile attack on German territory, be it in the east or in the west.

Freiherr von Fritsch, more than any one military leader enjoyed the confidence of the entire German Army. How would that have been possible if the generals had been dominated by the thought of aggressive war? The contrary is true. The Officers' Corps shared the opinion of its Commander in Chief and, like him, regarded armament only as the absolutely necessary measure for security against heavily armed neighbors.

Under the Commander in Chief of the Army stood the Chief of the General Staff of the Army who at that time was General von Beck. He was responsible for the ideological trends and for the training of all officers of the General Staff. He was of the same opinion as General Freiherr von Fritsch. In the summer of 1938 he protested in a memorandum against any policy which might involve Germany in a war. In the same manner in which Freiherr von Fritsch was backed in his attitude and ideas by the army, General von Beck had the support of all officers of the General Staff.

Both these officers were dismissed by Hitler. General von Fritsch fell in battle at the head of his troops. Having been disgraced, he wanted to die. General von Beck lost his life owing to his participation in the events of 20 July 1944.*

* The attempt on Hitler's life.

The attitudes of the Officers' Corps were also shared by all the defendants. Besides, during the time of rearmament they were in positions in which it was impossible for them to exert any kind of direct influence on the decisions regarding rearmament or on its implementation.

Field Marshal von Leeb was not concerned with rearmament either. That was dealt with by the central offices in Berlin, the OKW, and the OKH. The task of the army group of which he was chief, consisted at that time solely in the supervision of training. Field Marshal von Leeb therefore did not participate in any planning of rearmament or in any discussion about it nor did he deal with it. At no time did he collaborate with politicians or industrialists.

Field Marshal von Leeb did not have any part in the proclamation of military autonomy. He heard of it only through the public sources of information. Nor did he have anything to do with the plan to reoccupy the Rhineland, although the Rhineland was within his area of jurisdiction. One or two days before the occupation he was ordered to Berlin in order to report to the OKH. There he was informed of the intention to carry out the occupation. Besides, the occupation did not have any military significance but only a symbolic one. All in all, only three battalions were transferred across the Rhine.

As has been mentioned before, the OKH had drawn from the geographical, political, and military defensive situation of Germany the logic conclusion with regard to the entire training of the military leaders and of the troops. General von Seeckt as well as General von Fritsch laid too much one-sided stress on the question of defense.

Field Marshal von Leeb, as commander of Military District Headquarters VII at Munich as well as subsequently as Commander in Chief of Army Group 2 at Kassel, assigned to his subordinate commanders only operational tasks of a defensive nature, i.e., in Bavaria to defend the southern border as well as the eastern border against the Czechs, and as Commander in Chief at Kassel he ordered the defense of the Rhine and later on of the West Wall.

His book on operational and tactical defense was the result of his life work and expressed his military views and inclinations.

As has been mentioned before, the conference of 5 November 1937, can be considered, according to the opinion of the International Military Tribunal, as the earliest date on which Hitler's aggressive intentions became apparent to third parties in a somewhat tangible manner. That conference, however, was secret. Field Marshal von Leeb neither participated in it nor was he

informed of the discussions. In connection with the dismissal of Field Marshal von Blomberg and General von Fritsch, he was relieved from his position as Commander in Chief of Army Group 2 as early as February 1938, for political reasons, and pensioned off.

IV. Participation in Wars of Aggression

One of the basic principles of law which are generally acknowledged by the various nations and therefore constitute integral parts of international law is to the effect that nobody may be punished for an offense which at the time of its commission did not yet constitute a crime. That was the reason why, even in the proceedings before the IMT, the British prosecutor put at the center of his exposition the question whether or not the London Charter was in agreement with previously existing international law, realizing that this Charter could be considered to be valid only in so far as such agreement existed. With regard to Control Council Law No. 10, American Military Tribunal V, in its judgment of 19 February 1948, against Field Marshal List and other Southeast generals quite clearly and openly expressed this conclusion stating that whatever of Control Council Law No. 10 exceeded previously existing international law meant application of might and not of right.* (*Case No. 7, tr. p. 10434.*)

Of course also in these proceedings the defense raises the objection that Article 6(a) of the London Charter and Article II, 1(a) of Control Council Law No. 10, which have introduced the so-called crimes against peace as a concept new to jurists and in international law, are invalid since they are *ex post facto* laws. The defense will deal with this problem at another opportunity more closely.

Whenever, in the following, I start with Control Council Law No. 10 in order to consider the participation of my client in crimes against peace as alleged by the prosecution, I do so only with the reservation of our basic attitude mentioned above to the problem of whether the waging of aggressive war is punishable or not.

Field Marshal von Leeb was in retirement from 1 March 1938, until 1 September 1939.

He did not participate in the occupation of Austria.

He was not present at the discussion at Berchtesgaden on 10 August 1938, which has been mentioned by the prosecution. At that time he lived as a private citizen in Munich and was informed neither of this discussion nor of its contents.

In the autumn of 1938, his retirement was interrupted for two or three weeks when he had to take over the command of the 12th Army during the occupation of the Sudetenland.

*United States *vs.* Wilhelm List, et al., Case No. 7, Vol. XI.

This occupation was carried out peaceably in accordance with the conditions of the so-called Munich Agreement concluded on 29 September 1938, i.e., on the basis of an international agreement and with the consent of England and France. Obviously the occupation did not constitute any forbidden act of aggression. For that reason, even in the proceedings before the IMT, it was not once mentioned by the prosecution before the IMT as a war of aggression. According to the judgment of the International Military Tribunal, it can, in the same way as the occupation of Austria, not be considered a criminal offense against peace except as part of a common plan of aggression i.e., *only as a preparatory step towards further acts of aggression already planned*. Field Marshal von Leeb was not one of those to whom this charge applies. Neither did he participate in a common plan which envisaged further acts of aggression, nor could he know that Hitler considered taking further steps. Shortly before, Hitler had declared that his claim on the Sudetenland was his last territorial claim in Europe. This solemn declaration was at that time believed not only by large parts of the German people, but apparently also by the foreign statesmen. As regards the assertion of the prosecution that the defendant knew that Hitler had no intention of keeping this promise, it lacks not only all proof but is also incorrect. It is one of those generally held assertions of the prosecution which, just in the decisive points, puts mere words in place of proof.

At that time a feeling of relief pervaded the entire German people, for everybody in Germany believed that with the annexation of the Sudetenland the period of unrest would come to an end. The idea that further steps might be taken by Germany was particularly unlikely since one could assume that the solution arrived at in the Munich Agreement was based on just grounds. It is well known that the British special deputy for Czechoslovakia, Lord Runciman, had stated as early as the middle of September 1938, in a report to his government, that it was impossible for Germans and Czechs to continue living together in the Czechoslovak State. This report was the basis on which the crisis was resolved. Neither was there any reason for Field Marshal von Leeb to believe that the consent of England and France to the occupation of the Sudetenland was not the result of objective considerations but rather a yielding to threats.

Field Marshal von Leeb did not participate in the planning, preparations, and carrying out of the occupation of Bohemia and Moravia in March 1939. He was living in retirement.

Field Marshal von Leeb did not participate in the planning, preparation, and in the waging of the campaign against Poland

either. The prosecution is mistaken if it assumes that Field Marshal von Leeb participated in discussions on plans and operational matters which allegedly took place in the course of summer 1939. At that time, too, he was living in retirement at Munich.

It came as a complete surprise to him when, on 22 August 1939, he was suddenly ordered to a conference at the Obersalzberg. There for the first time he was informed of the situation. The Non-Aggression Pact with Russia, however, seemed to allow for a peaceable solution.

Field Marshal von Leeb took over the command of Army Group C, which did not participate in the campaign against Poland. It was stationed in the West and its mission there was merely defense against France and England, both of which had, on 3 September 1939, declared war on Germany, as well as against any possible other enemies which might follow the example of the above two states.

The right of defense has always been one of the basic rights of states and of their armed forces. A general cannot be said to be committing a crime against peace because he defends his country against enemies, while it is itself engaged elsewhere in an aggressive war. It may well be in such cases that as far as the plans and intentions of the supreme command are concerned there is a connection between the various operations. Just like every other soldier, the general does his duty where he is stationed and carries out his orders according to his mission. The military order to defend the Western border of the Reich against a potential enemy, and after 3 September 1939, against real enemies who had declared war on Germany, was not illegal. Can one imagine that any foreign general would have had any doubts about the legality of such an order or would have had any misgivings in carrying it out? The arguments of the prosecution lead to the absurd conclusion that Field Marshal von Leeb ought, in case of an attack by France and England, to have opened the borders of the Reich to the enemy for pseudo-legal reasons. The fact that the enemies' armies did not attack, but that both armies confronted each other inactively, justifies no other opinion.

In the case of Belgium, Holland, and Luxembourg, the indictment considers Field Marshal von Leeb's crime against peace to have been that he participated in the planning of the entire campaign. This assertion is incorrect. Field Marshal von Leeb participated neither in the planning of the entire campaign, nor of part of it.

During the Polish campaign the front against Belgium, Holland, and Luxembourg belonged to the area of jurisdiction of Army Group C. Field Marshal von Leeb as its commander had a

purely defensive mission. There were no violations of frontiers or frontier incidents.

After the conclusion of the campaign against Poland, Army Groups B and C were stationed in the West. They took over the front against Belgium, Holland, and Luxembourg, and the northernmost part of the front against France. Field Marshal von Leeb retained the front against France from the area of Saarburg (south of Trier) down to the Swiss border. Army Group B took over command on 10 October 1939, and Army Group A shortly after. The preparation of the attack on Holland, Belgium, and Luxembourg, and the attack itself, were the tasks only of Army Groups A and B.

In order to show that Field Marshal von Leeb was concerned in the violation of the neutrality of the three last-mentioned countries, it is asserted in the indictment that Field Marshal von Brauchitsch ordered Field Marshal von Leeb, on 7 October 1939, to prepare for the immediate invasion of France, Luxembourg, Belgium, and Holland. This assertion is incorrect. The order issued by the Commander in Chief of the Army, on 7 October 1939, to Army Groups B and C, states that Field Marshal von Bock should take over the command of the newly formed Army Group B on 10 October 1939. *This* army group should make all preparations for an immediate invasion of Dutch and Belgian territory. Thus, according to the plan at the time, only the preparation for an immediate occupation of Holland and Belgium was ordered, not, however, for an invasion of France and Luxembourg, and these preparations became the task of Army Group B, and not of Army Group C under Field Marshal von Leeb.

Just as Field Marshal von Leeb did not participate in the planning of the campaign against Belgium, Holland, and Luxembourg, he did not participate in its implementation either. His army group went into action only after the occupation of these three countries had already been concluded and when the second part of the campaign against France started.

The attack on France did not constitute any forbidden war of aggression. France had declared war on Germany. That is the reason why, in the proceedings before the IMT, this war was considered neither by the prosecution nor by the Tribunal as a forbidden war of aggression.

Field Marshal von Leeb, by the way, did not participate in the planning of this campaign either. He had only received orders about the tasks which he was to carry out in the course of the campaign against France. There could not be any misgivings of a military nature against the execution of the campaign against France, just as there could not be any from the point of view of

international law, since the success of the campaign was from the very start certain in view of Germany's superiority. In spite of that Field Marshal von Leeb, and together with him the commanders of the other army groups, tried to prevent the German attack in the West.

After the conclusion of the Polish campaign, Field Marshal von Leeb first of all handed the Commander in Chief of the Army a detailed memorandum in which he suggested that the war in the West should be waged as defensive, which would spare Germany the blame for having started the attack and for having violated the neutrality of Holland, Belgium, and Luxembourg. He wrote in that memorandum: "Every attack against the Western powers will in all probability cause the United States of America sooner or later to enter the war". He finally suggested the demobilization of all divisions not needed to repel a French offensive, in order by this measure to indicate to the Western powers the desire *not* to attack them, and in order to make a conclusion of the war through diplomatic channels possible. This memorandum is among the files of the OKH. The copy which Field Marshal von Leeb had in his possession was looted, together with all his other property, by American soldiers. Its contents will be established by the Generals Felber and von Sodenstern.

The Commander in Chief of Army Group B, Field Marshal von Bock, submitted a similar memorandum.

On 10 November 1939, at the instigation of my client, the three commanders of Army Groups A, B, and C, had a secret discussion to prevent the campaign in the West. All three commanders were very much against the attack which Hitler demanded. They agreed to put off the offensive on various pretexts in order to gain time for diplomatic efforts and for an easing of the situation. Field Marshal von Leeb further suggested that all three commanders should personally state to the Commander in Chief of the Army that they were opposed to the carrying out of the attack. The other two commanders could not be persuaded to join in such an undertaking since it bordered on mutiny.

Field Marshal von Leeb found out that the Commander in Chief of the Army also was opposed to an offensive in the West. Field Marshal von Brauchitsch inquired from him through a confidant whether or not he would back him up if it should come to a clash or to a rupture with Hitler over this matter. Field Marshal von Leeb declared himself completely prepared to do so. Thus the generals did not intend to unleash war in the West as is asserted by the prosecution, but on the contrary, wanted to prevent the war.

But all hopes of reaching a peaceable solution proved in vain. On 23 November 1939, Hitler ordered the commanders to the Reich Chancellery. He severely reproached them for their timidity, declared himself utterly dissatisfied and said, "What kind of generals are these whom I have to drive into war, whereas it should be the other way round." It was not a discussion with the commanders on operations planned, as the indictment has it, but a one-sided address by Hitler, who left the room as soon as he had finished.

The only thing which was achieved was the postponement for six months of the opening of the campaign. Hitler could not, however, be dissuaded from his decision to start the campaign.

The events preceding the war against the Soviet Union will be shown in detail in the examination of Field Marshal von Leeb, as well as during the presentation of all the other evidence. At this point I limit myself to the following:

At the end of March 1941, Hitler convened the commanders, among them Field Marshal von Leeb, to the Reich Chancellery and informed them in an address of his views about the situation. The burden of his statement was: Russia is sure to attack us. It is a matter of self-preservation to forestall this attack.

Thus the problem of preventive war arose. We have an authentic interpretation of the problems in international law which touch on that in the statement which the American Secretary of State Kellogg—before he signed the agreement of Paris, named after him—made in a note of 25 June 1938, directed to the nine states concerned; which reads as follows:

"The right of self-defense * * * is inherent in every sovereign state and is implicit in every treaty. Every nation * * * alone is competent to decide whether circumstances require recourse to war in self-defense."

It may never become clear whether or not Russia did, at the time, really intend to attack Germany. Thus, we cannot ascertain whether Hitler himself believed in the theory of preventive war or not. In authoritarian states, ultimate ideas and plans are locked in the minds of certain people.

Since the International Military Tribunal—in cooperation with Russian judges—expressed in its judgment of 30 September 1946, the opinion that one could not believe that the Soviet Union planned to attack Germany, we have witnessed events which make it incumbent to review this opinion. The Soviet Union has extended its political and military sphere of power to a degree and by means which formerly do not seem to have been considered possible by her one-time Western Allies. We can only imagine the next steps. From the annexation of Bessarabia in May 1940—

which, as the prosecution itself has emphasized in its opening statement, caused Hitler even at that time uneasiness—to the recent events at Prague, there leads an absolutely straight path. It would be naive to assume that the appetite of a government as purposeful as that of Russia has been satiated. The events which we witness are merely parts of a well thought-out plan. They are the result of the concentrated energy of expansion which the Russian State has always displayed, and which has been part of the Communist ideology from the very outset. The road to this aim was blocked only by Germany. For all these reasons it would by no means have been absurd for Hitler to believe that the Soviet Union would make use of the opportunity to stab Germany in the back—who, with her face to the West, had to fight England—and thus to get rid of her. However, be that as it may, it is of no account in these proceedings what Hitler believed, and all that matters is what the defendants thought at the time when they carried out his orders.

Field Marshall von Leeb—and this goes for some of the other defendants as well—had no reason to assume that the Chiefs of State and their Commander in Chief were lying to them. As has been pointed out before, the political and military situation seemed to confirm the correctness of the preventive war theory. They had no opportunity to check on Hitler's statement. In a situation, which was apparently one of danger for their country, there was only one thing they could do: carry out an order they had no reason to consider illegal.

At present we are again living in a time of similar tension, and again nobody knows what the future may bring. Yet there is a very grave difference. For Germany it was different then from the situation in which the United States finds itself at present. It was a question of life and death to forestall the opponent, for the problem of a war with Russia could only, if at all, be solved by Germany by an offensive which would interfere with the deployment of the enemy. In that situation the German commanders acted according to the principle which the British Field Marshal Lord Alexander formulated in an address at Portsmouth in July 1946, as follows:

“Politics is the business of the state. It is the soldier's duty to obey without question the orders which the state, i.e., the nation, gives him.”

For their country itself the statement from the above-mentioned note of State Secretary Kellogg holds good:

“Every nation * * * alone is competent to decide whether circumstances require recourse to war in self-defense.”

A commander's legal responsibility for war crimes and crimes against humanity is in a large measure a question of his competence and jurisdiction.

Before dealing in detail with counts two and three of the indictment, I propose to discuss the competences vested in Field Marshal von Leeb in his capacity as commander of Army Group North in the East.

The High Command of the army group was a purely *operational* command. Field Marshal von Leeb's task consisted exclusively in the *direction* of the *operations* of the 16th and 18th Armies and of Panzer Group 4. On account of the difficulty of the task—in view of the enemy's preponderance, the vast spaces, and difficult communications—the Commander in Chief of the Army had relieved the commanders of army groups in the East of all responsibilities not directly connected with operations. In this way, the army group command became a numerically small command which, in respect of the operational sector, and strictly limited thereto, formed part of the chain of command which in all other matters proceeded directly from the High Command of the German Army to the armies.

Thus, for example, all supply matters, that is the supply of the armies from the zone of interior, and all shipments from the front to the zone of interior, especially the transportation of the wounded and prisoners of war, were directly settled between the Generalquartiermeister in the OKH and the Oberquartiermeister of the armies. The army group had nothing to do with these matters, nor did it form a link to the chain of command. Hence there was no Quartiermeister Department in the staff of the army group, nor was an Oberquartiermeister attached to it.

Field Marshal von Leeb exercised no power of jurisdiction, he had no Legal Department, no court, no judicial authority. No executive power was vested in him. He was not a territorial commander.

All these functions were vested in other agencies and in the OKH, which body was the top command conducting the Eastern Campaign.

Hence army group commanders in the East held a position very different from that held, for instance, by General Yamashita in the Philippines, who conducted the campaign as the supreme military authority in his theater of war, being both tactical and territorial commander at the same time. I propose to offer considerable proof in support of my contention that the position of an army group commander was of this special kind.

Count two. I shall start with the Commissar Order.

As this order did not refer to an operational matter, the OKH transmitted it directly to the armies. The army group command did not receive this order as being an agency responsible for its execution, but merely by way of information. The order then, along its channel to the armies, did not pass through the army group command. Field Marshal von Leeb could not prevent this kind of distribution; he had no power to do so.

The 50th [L] Army Corps alone at that time was directly subordinate to the army group as a reserve; that is, it was not attached to an army. Field Marshal von Leeb did not transmit the Commissar Order to this army corps. Nor did he transmit it to the commander of the army group rear area, either orally or in writing.

The assertion in the indictment that Field Marshal von Leeb had in fact transmitted the Commissar Order to subordinate units is accordingly incorrect.

The order itself was contrary to international law. Hence Field Marshal von Leeb opposed it. It was only in this respect that he intervened in the matter, although it was outside his competence. This intervention, intended to avert a violation of international law, cannot be held to prove his criminal responsibility.

Field Marshal von Leeb, a soldier of 53 years' standing, nurtured in the traditions of warfare according to principles of law and justice, on altogether five occasions lodged a sharp protest against the Commissar Order with his superior commands, i.e., the OKH and the OKW. He did this as early as the end of March 1941, when Hitler announced this order to the Commander in Chief of the Army, subsequently on the occasion of visits by the latter in Kovno and Pskov, and finally on the occasion of two visits by Field Marshal Keitel in Malnava and Pskov.

On 23 September 1941, the OKH requested the OKW to re-examine the Commissar Order, stating that all three army groups had personally communicated to the Commander in Chief of the German Army their view that the Commissar Order ought to be rescinded.

In dealing with subordinate units, Field Marshal von Leeb emphasized on every occasion that the order need not be carried out, and he took steps to have this view also disseminated by his chief of staff and the officers of his command. He knew that the three army commanders subordinate to him* likewise repudiated the order and that they had protested against it. During his numerous flights and trips through the front area, he met with no other views. The defense will submit evidence in support of this contention.

* Field Marshals von Kuechler, Busch, and Hoepner.

Apart from the fact that this matter did not pertain to the competence of the army group command, any action taken to countermand the order in writing would have defeated its own purpose. Such a measure would soon have come to the attention of the top level with the result that the most stringent execution of the order would have been emphatically insisted upon and secured by compulsion. Issuance of a countermanding order by a commander would have made of this matter a vital issue for Hitler, and Hitler commanded the means to compel the unqualified execution of his order so as to preserve his authority. Such considerations, however, appear to be remote from the prosecution's one-sided and rather theoretical way of looking at the situation. The only feasible and effective method, in the situation at the time, was to sabotage the order and not comply with it, in the way in which it was actually handled. Even today the prosecution will not be able to point out a better way.

DR. LATERNER: Your Honor, might I inform the Tribunal that during the course of this afternoon the Tribunal will receive the English translation of the opening statement. Unfortunately, it is not yet finished.

PRESIDING JUDGE YOUNG: I understand that it was not finished. That is the reason we don't have it.

DR. LATERNER: The reports on commissars shot, submitted by the prosecution, are very informative if compared with the figures of captured commissars. Thus the 16th Army, in its report covering the period from 27 July to 20 September 1941, that is nearly 2 months, listed 17 commissars shot. For the same period and in the same reports, 114,332 prisoners were listed. Approximately 1,500 commissars belonged to these 114,000 men. Altogether the reports up to the end of December 1941 listed: 71 commissars reported shot by the 16th Army; 25 commissars reported shot by the 18th Army; total, 96.

Both armies jointly took approximately 220,000–250,000 prisoners up to the end of December 1941. Approximately 3,000 of them were commissars. The figure of 96 thus contrasts with the figure 3,000. Therefore, Hitler's order was not carried out; on the contrary, the generals' view repudiating the order prevailed.

It is most likely, moreover, that a considerable number of the commissars reported shot actually died in action. In order to comply with the regulation to make reports, and in order to avoid inquiries, they were reported as shot. We shall refer to this subject again in our presentation of evidence.

In the case of Panzer Group 4, its Commander, General Hoepner, as well as his two Commanding Generals. Reinhardt and von

Manstein, were strongly opposed to the Commissar Order and expressed their sentiments to Field Marshal von Leeb. Defense counsel for General Reinhardt will comment on the final collective report of the Panzer group which lists 172 commissars as shot.

In respect to the charges of the indictment, "prohibited employment of prisoners of war," and, "murder and ill-treatment of prisoners of war," I wish to make the following comments as defense counsel for Field Marshal von Leeb:

The prosecution's assertion that all the defendants, except Admiral of the Fleet, Schniewind, issued, procured, executed, and transmitted orders pertaining to these charges, is incorrect as far as it refers to Field Marshal von Leeb. As I have previously stated, Field Marshal von Leeb had nothing to do with the entire prisoner of war administration. It was a matter for the Quartiermeister and was outside his sphere of competence. It was dealt with by the Quartiermeister Departments of the armies and the Generalquartiermeister in the OKH. Nor did the army group command exercise any supervision over prisoner of war camps. It had no competence whatever in matters pertaining to prisoners of war. The chain of command and the channel of reports ran directly from the Generalquartiermeister in the OKH to the Quartiermeister of the armies and the army rear area. The evidence submitted by the prosecution does not contain a single order by the army group relating to prisoner of war affairs.

Count three of the indictment. Regarding the charge of mass murder and other crimes against the civilian population, I wish first of all to make the following general comments:

Field Marshal von Leeb has neither himself issued orders for crimes against humanity, nor transmitted, approved of, participated in, or aided and abetted, or even known of such orders.

He has ordered no one's execution. He has issued no orders calling for murder or violence. He did not collaborate with the Einsatzgruppen and other police organizations of Himmler. He neither imposed, nor was he instrumental in imposing collective penalties. He had no hostages apprehended or executed. He ordered no reprisal measures. He neither looted nor destroyed any property, nor did he order any such acts to be carried out. He had no towns or villages razed to the ground. And finally, he did not conscript the civilian population by coercive measures, nor did he transfer them or make them work under inhuman conditions or within artillery range.

And just as little did he cooperate in the economic exploitation of the country, or plunder and loot it, or order it to be plundered and spoliated, or tolerate plunder and spoliation.

Being a purely operational command, the command of Army Group North had nothing to do with the registration and drafting of the population for work. Nor did Field Marshal von Leeb hear of these matters.

The incident with the 285th Security Division mentioned in the indictment is incorrectly presented. Investigation of the case, as will be proved, revealed the following facts:

These civilians were removed from the area within artillery range and distributed by the 285th Security Division among places further back in the vicinity of Pskov, Gdov, Ostrov, and Pochka. They were billeted in these places and cared for.

This case then, demonstrates the very opposite of what the prosecution claims: not crimes against the civilian population, but measures for their welfare.

Hitler's decree dated 14 May 1941, eliminating military court martial proceedings against enemy civilians and rescinding mandatory prosecution in case of offenses committed by soldiers against enemy civilians, primarily concerned the field of jurisdiction outside the sphere of competence of the army group. For the rest, this decree dealt with reprisals against illegal resistance, that is to say, measures sanctioned by international law. Nevertheless, in connection with his protests against the Commissar Order, Field Marshal von Leeb also on several occasions raised objections to this decree with the Commander in Chief of the Army.

In connection with the last paragraph of this decree which stated that the decree was only valid insofar as it did not endanger military discipline, Field Marshal von Brauchitsch issued an order at the time, "Maintenance of Military Discipline," which made it the duty of the commanders and officers to maintain most rigorous discipline. The connection was clear. Field Marshal von Brauchitsch had not been able to achieve the rescinding by Hitler of the decree dated 14 May 1941. Therefore, he made it ineffective by his supplementary order.

The order of the Commander in Chief of the Army dated July 1941, concerning antipartisan warfare, was, as I will prove, given direct and not via the army group to the commander of the army group rear area.

Its contents do not violate international law. The order was obviously instigated by the partisan methods of warfare used hitherto. It dealt with the combating of partisan and sabotage activity, denial of prisoner of war rights to partisans and other illegal combatants, and the suppression of illegal resistance activity, by reprisal measures about whose admissibility under international law there can be no doubt. The order to hand sus-

picious elements over to the Security Police is a completely natural and understandable security measure. Nothing was known at the time about secret commissions of the Security Police and the Security Service.

With regard to the OKW order dated 16 September 1941, according to which 50 to 100 partisans were to be executed for every German casualty incurred during Communist insurgent activity, the prosecution has not even proved that this order went at all to the army groups in the East. The distribution list shows nothing of the kind. Field Marshal von Leeb does not remember ever having received this order, and he certainly did not pass it on.

Partisan warfare is an integral part of the Russian method of warfare. As early as 1812, the participation of the Russian population in the fighting contributed substantially to Napoleon's catastrophe.

The German High Command also knew that this traditional partisan warfare was to be expected, and included it, therefore, in its calculations from the very beginning by the establishment and distribution of security divisions to the army groups in the East. It was the duty of these security divisions to secure the rear communications and to relieve the front line troops of these tasks. These security divisions did not exist in the previous campaigns in Poland and France.

In his broadcast speech on 3 July 1941, Stalin summoned the Russian people to partisan warfare. The enemy had to be annihilated, there must be no pardon; no prisoners were to be taken.

This partisan warfare on the part of the Russians had been prepared long beforehand and set down in a service regulation.

From the trial against the Southeast generals we are well acquainted with the prosecution arguments that partisan warfare was admissible self-defense against German violations of the laws of war, and that, therefore the Germans were not authorized to proceed against the partisans according to the laws of war. This argument does not become any the more convincing by being brought up again in this trial after the first unsuccessful attempt. It is wrong with respect to its actual hypothesis as well as in its legal conclusions.

The partisans had no claim to the rights of combatants because they did not fulfill the conditions set down in Article 1 of the Hague Land Warfare Convention, especially because they did not adhere to the laws of war. The defense will submit evidence to this effect during the presentation of its case.

The Germans were, therefore, justified in taking summary proceedings against them. The legal conclusion was drawn by

Military Tribunal V in its judgment on 19 February 1948, in the following words:

“Therefore it has not been sufficiently proved that the bands with whom we are dealing in this case comply with the demands (of the Hague Regulations). This means, of course, that the members of these illegal groups who were taken prisoners had no claim to treatment as prisoners of war. No crime can adequately be charged against the defendants for killing such captured members of the resistance forces, because they were francs-tireurs.”

A guiding fundamental idea of the Russian partisan regulations was also the fanaticism with which the battles were to be fought. This type of fighting was also in accordance with the Slav character which under some circumstances tended towards cruelty. Large parts of the population were ready to carry on this warfare with all available means. This explains the extent and the harshness of this fighting. The compelling necessity arose for the Germans fully to apply the laws of war in this struggle in order to protect the lives of German soldiers, to create order, and to keep the lines of communication open. The defense will also deal with this in detail during the presentation of its case.

The events hitherto mentioned took place within the area of competency of the German Armed Forces. Outside their responsibility, on the other hand, lay the activity of the Einsatzgruppen belonging to the Security Police and to the Security Service, who, as we now know, were occupied in the eastern countries, under orders from Hitler and Himmler, with the mass murder of the population and especially with the extermination of the Jews.

For Hitler the war with the Soviet Union was not only a military affair but a war of two ideologies, a war of national socialism against communism which he regarded as the enemy of every human development. At the same time Hitler saw in this war an opportunity to execute further political plans, among which the infernal idea of an extermination of Jewry must have governed his thoughts as though he were possessed.

The armed forces had to conduct the military side of this struggle. Hitler rightly thought them unsuitable for the execution of his further intentions. He therefore transferred these measures to special organizations working independently of the armed forces and not subordinate to them.

Hitler expressed this quite clearly and definitely even as early as in the spring 1941 in his orders for operation, “Barbarossa”:

“The German troops will be accompanied in their entry by police troops, who have political tasks to fulfil and who receive their instructions exclusively from Reich Leader SS Himmler.”

The aims themselves, and the orders to murder given to these police troops, were kept secret from the armed forces by Hitler and Himmler. They obviously wanted to avoid attempts to hinder this policy and were afraid of unfavorable effects on the relations of the armed forces with Hitler.

This is partly why Hitler tried from the very beginning to limit as much as possible the sphere of the armed forces in the East, the so-called operational area, and to extend the sphere of the political administration. I would like to illustrate this with the example of Army Group North.

Field Marshal von Leeb's task was the military occupation of the Baltic countries of Lithuania, Latvia, and Estonia. The entry started on 22 June 1941. The Russians had scarcely been thrown back over the Duena [Daugava or Dvina] River when, on 25 July 1941, the whole area up to the Duena—including Riga, the capital of Latvia, namely, Lithuania and the large parts of Latvia, passed over to the Reich Commissariat "Ostland", and so came under civilian administration. One month later, on 1 September 1941, the rest of Latvia and parts of Estonia followed, and, on 5 December 1941, the rest of Estonia with the exception of a small area around Narva close to the front. Thus this area was withdrawn in every respect from the jurisdiction of Army Group North.

In this territory of the Baltic countries, an area almost as large as England, hundreds of kilometers from the front (the report by Dr. Stahlecker, submitted by the prosecution, speaks of 700 km.) operated a small police unit composed of about 500 men, the bulk of which were stationed in the Reich Commissariat "Ostland", in the Lithuanian and Latvian capitals, Kovno [Kaunas] and Riga. There, under orders from Hitler and Himmler, they carried on their dreadful trade of mass murder. Already in the trial before the International Military Tribunal the prosecution made great efforts to produce a positive and legal connection between these murders and the German Armed Forces. We find the same attempt renewed in this trial with the same emphasis.

The defendants are confident that the high traditions of the American administration of justice will ensure for them a fair and just examination of the facts and connections, free from hate and revenge, which are so apt on this very point to blind one against truth.

The asserted connection does not exist, neither *de facto* nor *de jure*. On the contrary, Hitler and Himmler intentionally and with very plain words cut the armed forces out of this sphere of tasks.

This can be clearly seen from all the orders and directives. Even in Hitler's directive for operation, "Barbarossa," it was

clearly expressed that the police troops would receive their instructions exclusively from the Reich Leader SS.

The first instructions in execution of this order were the "special directives," from the Generalquartiermeister on the Barbarossa Order, dated 3 April 1941. It was stated therein:

"In the army rear area and in the army group rear area the Reich Leader SS is to carry out special tasks with his own forces, independently and on his own responsibility. A separate order is being issued concerning this."

This separate order was announced by the Generalquartiermeister on 28 April 1941. In this order, too which the prosecution has submitted, the clear division of the spheres of power and responsibilities between armed forces and police is plainly expressed as follows (*NOKW-2080, Pros. Ex. 847*)*

"The Sonderkommandos of the Security Police (Security Service) carry out their tasks on their own responsibility * * *. The Sonderkommandos are authorized, within the scope of their orders, to take executive measures on their own responsibility against the civilian population."

The prosecution tries to adduce a connection between the armed forces and the racial-political mass murders of the Sonderkommandos of the Security Police from the regulation that the Sonderkommandos were subordinate to the armies for supply, and that the armies could halt their action in those cases and in those parts of the operational area in which such action could harass operations.

One must admit that even on paper this is only a very limited possibility of influence on the part of the armies. Actually every opportunity was open to these forces of Himmler to carry out their tasks and intentions.

Apparently it was a concession only on paper, a question of politics in order to throw yet more sand into the eyes of the armed forces than had already been done by keeping the real tasks of the Sonderkommandos secret. What chance did this decree, even if taken literally, offer a commander to prevent the police organs, far behind the front in the towns of the Baltic countries, from carrying out Himmler's murderous orders, of which the military commander knew nothing?

The sketch submitted by the prosecution shows that all murders committed by Einsatzgruppe A were carried out in the towns along the Duena [Daugava] and west of it, that is, in territories which became the responsibility of the Reich Commissariat "Ostland," as early as 25 July 1941. East of the Duena this sketch

* Document reproduced in section VII B 5b.

gives us merely the numbers 209 for the area of Livonia, and 1,158 for Estonia, whereas approximately 120,000 fall to the Commissariat "Ostland," which was under a civilian administration. It has not been established that such executions were carried out in an area and under circumstances which would have enabled a military commander, even in theory, to object on the basis of the decree of 28 April 1941.

One must also realize that the Sonderkommandos of the Security Police and Security Service had two different types of assignment; that is, normal security police tasks which naturally were the business of the police, and special murder commissions which were the result of the racial-political plans of Hitler and Himmler. The decree of 28 April 1941, referred merely to the former. It concerned innocuous security measures which every army has to tackle in enemy territory, and which frequently are passed on to special police units; for instance the safeguarding of various objects and individual persons, or the investigation and combating of illegal resistance movements among the enemy population. It is obvious from the nature of these tasks that the units of the police were obliged to cooperate in this respect with the counter-intelligence corps of the army. There is nothing in this decree to the effect that police units were at the same time the executive organs of the supreme Reich authorities for their racial policies. That was a fact of which the military commanders had no idea.

In face of these facts, what proof is there for the assertions of the prosecution that the Einsatzgruppen carried out their murderous tasks with the help and under the jurisdiction of the armed forces? What is there to show that they could enter operational territories only with the consent of the army? Where does it state that they had to report to the army commanders before and after every operation, or that they in fact did report to them? What justifies the conclusion that all their activities could be restricted by order of the Army Commander in Chief? Where is there a shadow of a proof that the Einsatzgruppen and the armies collaborated in the mass murder of Jews?

The prosecution makes assertions which do not agree with its own documents. Although it is the duty of the prosecution to prove its assertions, the defense will refute them, for it considers it, its duty to free the defendants of every suspicion of having participated in these grave crimes.

As soon as one approaches the problem from a legal point of view, it becomes apparent that the sharp differentiation of authority and responsibilities between the Einsatzgruppen and the armed forces, which is mentioned in all three regulations, excludes every responsibility of the armed forces commanders for the

murders of Himmler's police. The order proclaimed in the decrees of the Generalquartiermeister dated 3 April and 28 April 1941, stating that the Sonderkommandos of the Security Police as agencies of the Reich Leader SS carry out their assignments on their own responsibility, meant a clear separation of competencies. This order reflected Hitler's decree according to which police troops were to get their directives exclusively from the Reich Leader SS.

As regards the legal conclusions which arise from such a distribution of responsibilities, we have a very important precedent in the attitude voiced in his comprehensive final plea by the Deputy Judge Advocate General of the British forces, Mr. Stirling, in the proceedings against Field Marshal Kesselring before a British military tribunal at Venice. One of the most important issues in that trial was whether or not the responsibility for the shooting of 335 Italians on 24 March 1944, a reprisal measure with which the army had been charged at first, had been transferred by another Hitler order to the Security Service. The existence of the second order was in doubt. As regarded the former contingency the Judge Advocate General instructed the military judges to the effect that, should they assume this to have been clearly the responsibility of the Security Service, they would be obliged to acquit Field Marshal Kesselring.

As far as the record of the proceedings are not available to the Tribunal, I will submit the concluding speech of the Judge Advocate General to the Tribunal during these proceedings.

Since Field Marshal Kesselring was territorial commander, chief executive authority, and tactical commander in Italy, the attitude taken by the British Judge Advocate General—an eminent jurist who played an important part in the big trials of the British against German commanders—is of great importance for a problem of law which has been raised in the judgment of American Military Tribunal V, dated 19 February 1948. For, even though certain statements in that judgment of the American Military Tribunal seem to hold the territorial commander responsible for all events which occurred in that particular territory, without regard to competency and channels of command, this conclusion is certainly incorrect as far as the circumstances which prevailed in the German Armed Forces are concerned. This may be correct for the United States Army, which evidently only knows a standard military government in the occupied territory under the direction of the territorial commander. On the other hand, it was typical for the conditions in the territories occupied by the German troops that the administrative tasks were divided between the military command authorities and the political and police authori-

ties, between which there was a sharp differentiation. Both had their own competencies and their own channels of command. Only the supreme chief, Hitler, was common to both. Under him the competencies were divided. And under him any intervention by one sector into the other was impossible. They were separated by an iron curtain. Therefore, German territorial commanders cannot be made responsible for actions carried out by other state authorities in occupied territory, actions over which they had no possibility of influence because such actions were outside their sphere of power.

After these general remarks I now return to Field Marshal von Leeb. He had nothing at all to do with the Einsatzgruppen, not even with their Security Police tasks, which were Quartiermeister affairs. The instructions, dated 3 April and 28 April, both came from the Generalquartiermeister; therefore, they did not touch the sphere of tasks of the army group. If the army group received them at all, it received them only for information and not for action. Moreover, collaboration of the Einsatzgruppen with the I c of the army group was unnecessary, because of the high command of the army group was not competent for these police tasks.

Einsatzgruppe A obviously executed thoroughly Himmler's racial policy and his orders.

Field Marshal von Leeb heard about Dr. Stahlecker's activity report for the first time two years ago as a witness here in Nuernberg. The reasons why he received no knowledge of these events while he was commander in chief will become clear from his examination. They are as follows:

The Einsatzgruppe was not subordinate. It never reported on its activity to the high command of the army group nor to any other military command agency, but only to its own superior authorities. It also had no contact with the high command. Whereas Field Marshal von Leeb went to Pskov in Russian territory in July 1941, the Einsatzgruppe with the bulk of its men operated in the capitals of Lithuania and Latvia, and its activity only became evident there after 25 July 1941, that is, after the territory concerned had been transferred to the Reich Commissariat. Field Marshal von Leeb only once, right at the beginning of the campaign, received news of Jewish pogroms in Kovno, and he at once stopped further excesses there. Characteristic in this matter was the fact that according to the reports at that time, the pogroms were carried out by the Lithuanian population. Only through Dr. Stahlecker's report could it be seen that Einsatzgruppe A was behind them. Even the commander of the army group rear area discovered nothing. How then should information about these

events, which occurred in the Baltic cities—in the territory of the Reich Commissariat—reach as far as the commander in chief at the front?

Field Marshal von Leeb's tasks were to command many hundreds of thousands of soldiers, and his time was fully occupied by events at the front. He looked forward, at the enemy, and not backward at a small police unit carrying out Himmler's orders in all secrecy hundreds of kilometers away and subordinate to no army authority. I have already pointed out that the prosecution has always treated this question of the Einsatzgruppen with very special emphasis. This special interest was expressed in the attempt to create some connection between Field Marshal von Leeb and the shootings of Jews testified to by the witness, General Bruns. These shootings took place in Riga in December 1941. May it please the Tribunal—I will prove to you with witnesses.

(1) That in December 1941 the town of Riga had already been under the territory of the Reich Commissariat Ostland for some time.

(2) Field Marshal von Leeb had no authority whatsoever to issue orders for the territory of this Reich Commissariat.

(3) The limits of the command area of Army Group North ran far to the east of Riga, and

(4) Field Marshal von Leeb learned nothing at all about these shootings in Riga.

If, in spite of this, the prosecution charges Field Marshal von Leeb with these events, although they themselves are well acquainted with the state of affairs, then this represents an attempt to mislead within the realm of facts.

I close my comments at this point with the reiterated request that the Tribunal investigate this very matter with clear eyes and in the spirit of true justice.

The attempt in count four of the indictment to hold the defendants responsible for these crimes by the assertion that they participated in a common plan and in a common conspiracy, is absurd in view of the actual facts. Some time ago the then American Chief of the General Staff and present Secretary of State, Marshall, declared in a report to the American President that in his opinion there had not existed any common plan between the German Armed Forces and the Party.

The legal conclusions arrived at on the basis of a common conspiracy as alleged, contradict the generally acknowledged principle of individual responsibility to such an extent that nothing could show better than this count of the indictment the real nature of

much of the London Charter and of Control Council Law No. 10: an application of might and not of right! Besides, the prosecution has not submitted any valid evidence to prove the conspiracy to commit crimes against peace as charged in count four of the indictment, so that I herewith move that the proceedings be dismissed with regard to count four of the indictment. I also move that the proceedings be dismissed with regard to count one of the indictment, since my client by virtue of his position and in view of the fact that from February 1938, until the start of the war he was indubitably in retirement cannot have participated in a purely political crime as specified in count one of the indictment.

Before, however, starting with the presentation of evidence I should like to point out to the Tribunal some of the extraordinary difficulties which the defense has had to overcome in order to acquire necessary evidence.

This I do because these difficulties show that the recess period of 4 weeks which has been granted to the defense was not sufficient for a preparation corresponding to the importance of this case. I also consider it important that a statement of these difficulties be included in the record.

After years of preparation and the utilization of an unlimited staff and of technical resources, the prosecution has submitted in less than 5 weeks over 1,500 documents to the Tribunal, without reading them—that is, without their being made subject to proceedings.

The extent of this evidence selected by the prosecution, again with the help of numerous resources from the documentary material in Washington which was confiscated and captured in vast quantities, will become apparent if one considers that it fills 30 volumes, at approximately 12,000 to 15,000 pages.

This huge amount of material submitted by the prosecution could not be completely dealt with during the period of preparation.

This shows by the following:

(1) The possibilities of the defense are limited. As a matter of principle every defendant may only have one main defense counsel and he in turn may have only one assistant, and one to two secretaries. Exceptions have to be justified and especially sanctioned. Also in cases in which the main counsel may employ two assistants, such an augmentation of the defense staff is not of decisive importance in view of the amount of material.

(2) In spite of its abundant means the prosecution has not substantiated its case sufficiently. Even the indictment was drawn up summarily and it was therefore not possible to start preparing

the defense as soon as it was handed over. In the course of the presentation of evidence itself, the prosecution did not state against whom they submitted their evidence. This lack of substantiation makes the preparation of the defense much harder. Here I am going to add something. Four days ago, at last the defense received a list containing a summary of the material in the trial, by which, nevertheless, the prosecution will not allow itself to be bound. Therefore, even today, as I state here, the prosecution will not undertake a final substantiation and prefers to carry on with their game of concealment.

To this date the defense does not have any reliable basis as to the extent of the evidentiary material which had not been read. The German document books which were handed to the defense do not agree in content with the English document books submitted to the Tribunal. However, only the English document books are considered evidence. Spot checks have shown that the English document books contain passages which do not appear in the German document books. For the defense to be able to establish what has so far been offered in evidence, 80 document books have to be compared.

To this end one female interpreter has so far been put at the disposal of the defense. The translation of the German documents has to be checked closely. A considerable number of translation errors has already been established. The above mentioned interpreter, the only one the defense is allowed, has to compare these translations for the defense as well.

(3) The defendants have during the proceedings neither seen nor heard the evidence submitted against them. A due process of law, however, makes this necessary. They could therefore, as has to be stated again expressly, not follow the contents of the proceedings.

(4) In order to inform the defendants of the evidence—at least outside of the courtroom—the prosecution has been charged to put the photostatic copies of the documents at the disposal of the defense. This was done on the whole, in some cases only during the period of recess.

Only when the defense had received the photostatic copies of the documents the defense counsel could discuss them with the defendants on a solid basis. Only then counsel for the defense could produce substantial counterevidence. The required time to get witnesses and evidentiary material is by no means normal owing to the traffic conditions. Affidavits and documents which have already been requested have so far only arrived in part.

(5) Counsel for the defense could not make certain journeys which take much time—for instance, abroad—in order to produce

evidence before the beginning of the presentation by the defense. And I am thinking in this case of an interrogation of Field Marshal von Brauchitsch who is at the present moment in British custody.

(6) It is, however, particularly important that counsel for the defense have so far not been able to gain access to documents which are in Washington.

Access to this material was requested as early as the first session of the Tribunal. The motion to recess for 3 weeks was at that time refused with the comment that the defense would be given sufficient time to prepare its case. I put on record that the defense had to start their case without having been able, like the prosecution, to avail themselves of the most important sources of evidence. Thus, the defense, at the beginning of its presentation in proceedings of such historical importance, is confronted with the fact that it cannot fulfill its task completely. The defense doubts that it will have a fair chance.

Your Honor, this brings me to the end of my opening statement.

C. Extract from the Opening Statement for Defendant Hoth*

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DR. MUELLER-TORGOW: Control Council Law No. 10, which will be analyzed by competent authorities, used the terms, "crimes against peace," and, "aggressive wars." Both these terms represent something entirely novel. The Kellogg Pact does not know these terms either. International law does not even contain a generally accepted formula for the concept of "war," and its "provisions refrain from any form of ethic evaluation of the fact whether or not there exists a right to wage war in the individual case. They merely provide regulations for the conduct of acts of war if this war has become a fact on the strength of political decisions." (*Giese: "Deutsches Kriegsfuehrungsrecht", p. 2.*) Therefore, Control Council Law No. 10 is not in a position to introduce these concepts with retroactive legal effect concerning events which occurred in the past. To this day there does not exist any principle of International Law which would impose retroactive punishment on the facts of count one of the indictment. The "war crimes," and, "crimes against humanity," which General Hoth allegedly committed against combatants, prisoners of war, and civilians as claimed by counts two and three of the indictment pertain exclusively to the Russian campaign.

* Complete opening statement is recorded in mimeographed transcript, 29 April 1948, pp. 3019-3085.

In this connection it is even more important to detach the assertion of the prosecution from its one-sided distortion and to link it up with the larger pattern of events. The struggle in the East had its own character, because the East itself has a character of its own. The German soldier who had participated in several campaigns had remained the same. The conflict between East and West which now, after this terrible war, forms the center of the political thoughts of the world, gave its character to the Russian campaign, too. The vastness of the eastern space with its special climate proved as decisive for that campaign as the peculiarities of the Russian soul. In as much as he is European, he is in general good natured, loyal and, as he lacks initiative to take individual action, tends to be led, and actually needs leadership. It is characteristic that throughout the whole of Russian history practically no democratic constitution existed. The Russian is deeply rooted in nature and has strong developed instincts. If his emotions are roused by external forces, they may produce extremely cruel excesses as the German soldier in the East had to experience time and again. The Communist government which, in full awareness of this fact, used at that time, above all, Asiatic types, knew how to incite artificially these instincts repeatedly and to exploit them in the interest of its military plans. Thus we may also explain the phenomena of the partisans and the political commissars. Both were something basically foreign to the German soldier. He was used to face an enemy in open combat, an opponent who honored the laws and customs of international law. All these artificially created difficulties were added to the natural difficulties encountered in the East.

First as the commanding officer of a panzer unit and later as the commander in chief of an army, General Hoth had to master these things in order to be able to carry out the tasks allotted to him. He is a soldier of the finest traditions and devoted himself completely to his profession. As tactical commander in the East his principal concern was with the enemy; this was all the more important for him as a general in the tank corps. During movements he was always at the place where he considered it his duty to be, that is to say, right up at the front, so that he could personally observe the situation and make the necessary decisions on the spot. It was not long before the ordinary soldier came to know him and to admire him, for he knew that, though the general was strict, he never demanded anything impossible, that he had a warm heart for the soldiers and that he constantly endeavored to lessen their suffering. Only those who know the East, and who experienced the Russian winter and the muddy season can comprehend the terrific demands which these conditions created for

each and every individual. If tank units are to fulfill their tasks, they must remain mobile and prevent everything which might reduce their ability to move. For them there exists no "rear area," in the traditional sense of the word PW's have to be evacuated to the rear as quickly as possible, so as not to slow down operations.

The territory assigned to an army is extremely large. The commander in chief cannot be present everywhere, he cannot concern himself with everything that goes on in his sector.

He does not learn of the details of the multitude of everyday occurrences. They are dealt with by his staff. Above all, the commander in chief cannot be held responsible for things which occur without any sort of proximate causation. In particular, he cannot be blamed for those excesses which transpire in every army. Those which came to his knowledge he punished severely—no matter whether the culprit was an officer or an enlisted man. The so-called, "Barbarossa Jurisdiction Order," basically changed nothing as far as the excesses against the Russian civilian population were concerned. One cannot possibly speak of the German soldiers having behaved like barbarians, as the prosecution has claimed. The large majority of them never heard of this order at all.

What is the basis for the prosecution's charges?

Its opening statement contains the following paragraph:

"The prosecution is not going to present individual cases of unauthorized brutality by German soldiers. Instead, it will portray a deliberate *policy* of murder and ill-treatment of civilians and prisoners of war, originating with the highest Wehrmacht authority applied in every theater of war and by all defendants. This policy is rooted in the contemptuous and scornful attitude toward the laws of war which has characterized the German Officers' Corps for decades."

In complete contradistinction to these deliberate falsehoods the German officer was especially respected by all the armies of the world. That would certainly not have been the case had those armies regarded the Germans not as their chivalrous opponents, but as the enemies of law and humanity. The defendant Hoth above all did not practice any system of extermination, murder, ill-treatment, or destruction, but always endeavored to act—as far as this was compatible with the exigencies of war—in accordance with those principles which would as a matter of course motivate every decent person. Just as the decision to begin the war was not made by the army, so the fighting in the East—seen from the point of view of the German Wehrmacht—was not a political ideology, but a purely military matter. The fact that the under-

lying aim of the struggle was the destruction of bolshevism which was threatening the existence of Europe had nothing to do with it. This is shown most clearly by the fact that Hitler entrusted the extermination of the Jews to the SD and not to the Wehrmacht, which he obviously did not trust sufficiently with regard to this dreadful task; its execution did not require a large number of men. The prosecution dares to link General Hoth along with the other defendants with the extermination of the Jews. But he never saw or heard of the secret Fuehrer order upon which that extermination was based. He was not even acquainted with the draft of the OKH order which was submitted by the prosecution and which concerned the cooperation of the Wehrmacht and the SD in the execution of police measures for the security of the army. Of course, he did know of the transfer of such tasks to the SD and the resulting limitation of his executive powers. When he heard at Artemovsk by chance from one of his subordinate commanding generals about the extermination of Jews, it conjured up for him the picture of excesses on the part of the SS—since at that time he had never heard of the Einsatzgruppen of the SD—and he made the event the topic for a report to the army group. This conduct shows clearly enough that he had no connection with the atrocities that were committed.

The prosecution believes that in the order given by the defendant Hoth as Commander in Chief of the 17th Army on 17 November 1941, and concerning the "conduct of German Soldiers in the Eastern Theater," it has found the clue to a policy of extermination of the Jews which he allegedly pursued. This, however, is not the case. The purpose of that order, which was circulated among the commanding officers only, was merely, in view of the winter lull which was expected, to arouse the German soldier out of the careless attitude which had so often led to disaster and to draw his attention to the dangers surrounding him from all sides. The ideological contents of the order were the result of personal experiences in Germany and in Soviet Russia.

The order was not supposed to have any practical effects as alleged by the prosecution, nor did it have such. That will not be difficult to prove. If the reports submitted speak of the shooting of Jews—incidentally a small number—they were not shot because they were Jews, but because they had committed some offense. The same applies here to the reported shooting of the so-called, "Communists," who were shot, of course, not because they were Communists, but because in the practical application of their Bolshevik ideology they had acted in a manner hostile to the Wehrmacht. If it had been different all prisoners of war who could

be recognized as members of the Communist Party would have to be shot. But this was not the case.

Another category which is mentioned in the reports are the partisans who can be traced back to Stalin's radio address of 3 July 1941. They were, as has been mentioned before a special characteristic of the Russian theater of war. Only those who themselves ever travelled through the territories infested by guerrillas can appreciate the potential danger and the cunning of those bands. They did not adhere to the rules of international law, they often terrorized their own peaceful countrymen and caused much revulsion and bitterness on the side of the German soldiers through the atrocities they committed. Often it was difficult to restrain the soldiers from rash acts against captured partisans.

The guerrillas were led above all by political commissars who although they were usually in uniform, even though without special insignia, could be found with the units, but who also often violated international law. With respect to the few commissars who, according to the reports, were executed, the prosecution has also failed to prove that they were executed merely because they were commissars, without having individually engaged in activities violating international law.

Whenever executions did take place it happened only quite in contradistinction to the statements of the prosecution, if individual guilt could be proved on the basis of thorough investigation.

This proof could be adduced without any difficulties, of course, if the violations could be identified clearly as acts against regulations issued by the Security Police and generally known among the population. In such cases the measures taken may often seem quite severe but the maintenance of security and order—especially in combat areas—does not allow to neglect such severe measures. In individual cases they are often regrettable but are a military attribute which cannot be circumvented by any occupying power. To give only one example, Ordinance No. 1 of American Military Government for Germany according to which a great number of such police violations are subject to capital punishment likewise serves to establish this principle.

I do not wish to conclude this chapter without referring to the special characteristics of military reports. Often they have been taken out of their context by the prosecution; however, even in their entirety they speak their own language. It is necessary to realize that they have been hurriedly composed by subordinate, often young soldiers, often in between combat actions or at a place where the unit stayed only for a short while. Their composition and contents were often prescribed exactly by standard regulations. But standard regulations are apt to generalize.

I should now like to interpolate for the translator that, "Formulare" has been translated by the term, "standard regulations," but it does not mean standard regulations but forms, that is standard forms.

The special requirements of the individual case, its causes and consequences can not be recognized. Hence it is frequently impossible to ascertain—and I refer to the above statements on the contents of the reports—whether or not a measure was justified. Finally the fact must not be overlooked that even purposely *false* reports were made in order to create the impression with higher authorities that the orders issued had been carried out.

These reflections prove that military reports made in time of war—taken as such—have only a very limited probative value. They should be substantiated by other documents or by witnesses' statements with respect to the reported events in order to assume full probative value.

In order to complete my general statements with respect to the charges of the prosecution, I wish to say a few words about the treatment of the prisoners of war and the civilian population.

It has been asserted that the Russian prisoners of war were subjected to a clear plan of systematic starvation. The prosecution, however, has not been able to prove such an intention. This assertion is untrue. It is an established fact that the Russian soldiers were often almost starved to death at the time they were captured. In view of the fact that the prisoners were taken in large numbers, it is not surprising that difficulties arose with respect to their feeding. This occurred also in Allied prisoner of war camps in Germany under conditions which were more favorable in general. General Hoth, however, always exerted all his influence to master these difficulties as quickly as possible. Often this was possible only by reducing the rations of the German soldiers.

Neither did the prosecution prove that General Hoth is responsible for the fact that prisoners of war and civilians were used for types of work prohibited by international law. In this connection it must be pointed out that the civilian population often volunteered for work and did their work willingly in the service of the German Wehrmacht. General Hoth always took pains to accord humane treatment to the civilians. As far as he had personal contact with them, they showed him their special reverence. In general, the German soldiers and Russian civilians were on very good terms in everyday life, and they lived together in domestic harmony—thus excluding the need for houses or whole blocks being requisitioned.

Insofar as demolitions of any kind were necessary, this was not done arbitrarily but only when it was necessitated by military

requirements. Arbitrary spoliation, such as the prosecution asserted took place, is entirely out of question.

This brings to an end my statement with respect to the charges contained in counts two and three of the indictment.

In no case the prosecution proved that—disregarding extreme cases, that is, excesses—measures ordered by General Hoth during the Russian campaign or measures carried out under his command were not a, “military necessity,” within the meaning of the Hague Rules of Land Warfare. Without claiming this is a point in favor of my client, the question does not appear to be out of place today whether, in view of the destruction of cities—Nuernberg is only one example of many—and the killing of thousands and thousands of innocent people incidental thereto; the legal concept of “military necessity,” which was laid down 40 years ago, that is, a long time before the epoch of total war began, is still valid in any way.

In any case General Hoth attempted to stay within these legal and humanitarian limits. I shall prove this in particular with a number of affidavits. His character and personality will become clear through these affidavits. According to his whole personality and character he is not even capable of committing such crimes of which he is accused by the prosecution.

And this is the last and most fundamental question of this trial, namely, if and in how far we are dealing here with the problem of individual, personal and criminal guilt. How many of the facts under discussion here can only be clarified by history and only be judged as integral parts of a whole development.

However, that may be. In the case of the defendant Hoth, the prosecution could not prove in *any way* the atrocious accusations of a subjective nature which allegedly alone formed the basis for the charges of the indictment.

D. Extracts from the Opening Statement for Defendant Schniewind*

DR. MECKEL: May it please the Tribunal:

The IMT trial against the so-called chief war criminals which opened the various Nuernberg trials was meant to establish who were the primarily guilty persons responsible for the great international disaster of World War II, and the crimes committed in connection therewith. In that trial, two admirals of the German Navy were also sentenced, Admirals of the Fleet Raeder and Doenitz.

* Complete opening statement is recorded in mimeographed transcript, 25 May 1948, pp. 4760-4779.

I consider the verdict particularly worthy of notice, as the IMT did not convict the two admirals on the most incriminating counts, i.e., submarine warfare.

Based on the evidence submitted by the defense the IMT found that, although some of the measures ordered in naval warfare did constitute violations of ratified pacts, they could not however, be interpreted as violations of international law which would be punishable, as in practice all nations waging naval war, including England and the United States, acted exactly as the Germans did. The direction of German naval operations, i.e., the actual task and sphere of responsibility of the German admirals has thus been vindicated by the verdict of the highest tribunal of the victor nations. In spite of this however, the two chiefs of naval operations were sentenced, namely for their participation in, as well as preparation and direction of the planning for aggressive war. With every nation which claims to have a disciplined government the decision of peace or war is one of a political nature, a decision made by the head of the state and the government and not by the soldiers.

This viewpoint was also held at that time by officers of other countries, who opposed an opinion according to which military leaders were considered coresponsible and convicted for acts which were outside their scope of duties, and upon which they had no authority to decide.

On the other hand, the view was held that a commander in chief who represents his branch of the armed forces with the political leadership also had a certain political responsibility, because he, in his capacity as representative of the armed forces under his command, should have been able to exert some measure of influence upon the political leadership and should have made a point of so doing.

The justification of this particular opinion is a moot point, especially when one considers the conditions prevailing in Germany at that time, but this argumentation does not hold water if it is used for calling other military leaders to account, who were solely concerned with their military duties without ever having been close enough to exercise any political influence.

If now, after two years, the prosecution in the last of the Nuernberg trials once again demands that an admiral be convicted because he was allegedly coresponsible for aggressive war, it by far transgresses the boundaries of a thesis which at least theoretically justifies the charge of coresponsibility, and enters the realm of the boundless. If, in so doing, the prosecution refers to the verdict against the two admirals of the fleet in order to substantiate its

demands it overlooks completely—either deliberately or unintentionally—that the prerequisites were entirely different.

The prosecution attempted to stress quite especially the importance of Admiral Schniewind's official positions and the part which he allegedly played after World War I in the German Navy. I do not know whether certain exaggerations are the result of erroneous conclusions, or whether they were seriously meant to substantiate the indictment. I am particularly in the dark as to from what time on the prosecution claims the defendant to be guilty of criminal acts by his participation in preparing aggressive war. According to addendum A of the indictment, it has been alleged that the defendants committed crimes against the peace, war crimes, and crimes against humanity as early as 1919. In 1919, the former Lieutenant Commander Schniewind was a prisoner of war in the hands of the British, and in 1920 he was the skipper of a mine sweeper.

Furthermore, in their opening statement, the prosecution claims that in the years after the seizure of power by the Nazis, the admiral was one of the navy's officers with the highest seniority of service and rank. In actual fact, however, in 1933, he was commander and commanding officer of a cruiser, i.e., a naval unit which at best is comparable to a regiment. Even in 1938, he was merely one of the youngest rear admirals of the navy.

The defense does not intend to do the same and, on their part, attempt to diminish the position and importance of the Admiral. However, I deem it right and necessary at first to demonstrate the Admiral's actual position. For, I think it is unfair to exaggerate the importance and tasks of a person and to ascribe to him knowledge and information derived from such fictitious importance, which he could not possibly have had, and furthermore to suspect him of having passed decisions which he could not possibly have passed, as well as of having acted in a manner which was altogether an impossibility. The prosecution considers the rearmament program of the German Armed Forces as the first step towards the preparation for aggressive war, and, accordingly considers any participation in this rearmament drive criminal and thus punishable.

Or in other words, the prosecution wants to construe the fact that a person had cognizance of armament measures in violation of treaties, as being tantamount to having knowledge of intentions to wage aggressive war. Much has been said in this trial to refute this assertion.

The documents which have been submitted by the prosecution concerning the rearmament program as it affected the navy, have no connection whatsoever with the Admiral, nor do they prove

his participation in, or knowledge at all of armament measures which violated international agreements.

On the whole, the indictment has been drafted in such general terms that it was really difficult to find any clearly defined charges against the admiral. A considerable part of the evidence submitted consists of military orders which the admiral received, forwarded, or drafted. When this evidence was submitted, scarcely any other comment was made, except, "initialed by Schniewind," or, "signed by Schniewind." I cannot conceivably see how the Admiral's activity of receiving, drafting, or passing on of orders can be called an incriminating fact, for even the prosecution states¹ that this is part of the duties of officers in all the armies in the world.

However, the prosecution seems to be under the impression that, by submitting these orders, they have proved the Admiral's knowledge, derived from these orders, of the illegal nature of these planned wars, which were then waged at a later date.

A military order or an operational plan are not diplomatic notes, and if, occasionally, somewhat aggressive words were used in such orders and directives it has to be considered that these orders were drafted in case war did break out, and that the recipient of such orders, who was to prepare himself mentally as well as to make material preparations for just [such] a case, was also expected to imagine any given situation which would exist if war broke out. Everything leading up to this point is outside the military sphere, and in the majority of cases it can be assumed that all such matters are far removed from any influence a soldier could possibly exert. The concept of aggressive war itself, which has become the basis of all these trials, is unknown to the soldierly mind *per se*, at least in so far as it refers to the legalistic concept. Whether a war is waged as a defensive or an offensive war depends on totally different conditions from the fact that a war can be characterized as an aggressive or defensive war. Even a defensive war may be conducted by practicing offensive tactics. It is a fact though, that the legal minds of all countries have argued for many decades how the concept aggressive war could be defined. All proposals that have been advanced to elucidate this concept and to fix it once and for all were never unanimously approved. If, for example, we would accept the definition put forth during the 1933 disarmament conference, we could even arrive at the conclusion that the war which started on 1 September 1939, was an aggressive war launched by Poland; for even on 23 and 24 August, German airplanes which flew outside Polish territory were shot at by Polish batteries. In view of such an involved situation, is it fair to expect a soldier to show so much distrust toward his own govern-

ment that he examines or has examined from a legal point of view an ordered preparation for mobilization as to whether or not it might lead to an aggressive war?

Nevertheless, the prosecution claim that they can prove beyond any doubt the knowledge of the unlawful character of the wars with which we are concerned. In order to convince the Court of their contention, the prosecution has sketched an over-all picture of the events of the past 20 years. I claim that this picture is wrong from an objective point of view. In order to illustrate those events, the prosecution has submitted documents partly taken from their context, newspaper reports, and other material if they served the prosecution's purpose; however, they did not mention other important documents which would have been absolutely necessary in order to present an actual and true picture. The whole picture deviates from historic facts.

However, by selecting documents, two totally different versions can be presented, as is clearly shown by the documents and publications which were published some months ago by the governments of the United States and the Soviet Union. All of the published documents come from the same collection of documentary material, i.e., from captured German archives, from which, incidentally, the evidence of the prosecution has also been taken.

With those publications, the United States intends to prove that the Soviet Union's assistance and active support made it possible for Germany to wage aggressive war.

The Soviet Union's publications, on the other hand, are meant to show and to prove that the Western powers', "Policy of Appeasement," encouraged Hitler in his aggressive course, and made it possible for him to launch his aggressive acts.

I am of opinion that those two assertions are at least just as diametrically opposed to one another, as in our case the claims and counterclaims of the prosecution and the defense. Both in this as in the afore-mentioned case, a true picture can only be gained if a critical person knows not only the material selected by one party, but is also familiar with the whole material.

Furthermore, in their presentation the prosecution has the advantage of the fact that the picture of events drawn by them have been disseminated for years in a similar form and with all means of modern propaganda technique, and has been given thorough world-wide publicity.

Comparing the essays and books, which, in the years after World War I, deal with the war guilt, both those that appeared in 1920 and 1921 as well as in the 'thirties, it can be seen that opinions concerning the guilt question changed quite materially. In

the Versailles Treaty Germany was called the country solely responsible for World War I.

In 1929 Emil Ludwig, who certainly is above suspicion of being favorably inclined towards the Kaiser's Germany, wrote the following in the preface to his book, "July, 1914," in exactly the same words as quoted here:

"All of Europe must share the guilt for the war. That has been definitely established by the 'research work' in all the countries. Germany's sole guilt and Germany's innocence are fairy tales both on this and the opposite banks of the Rhine. Which country wanted the war? Let us couch our questions in different terms: What circles in all the countries wanted the war, facilitated its coming about, or started it?

"If instead of applying a horizontal yardstick right across Europe, a vertical measuring rod probes all classes of society, the following facts emerge: the whole blame can be put squarely on all the cabinets, yet, conversely, Europe's masses were completely and totally innocent."

Once more, the German people were defeated in a World War, and again allegations were made already during the war that Germany was solely responsible for the war.

I will add something here. The attempt must not be made to justify these things but I think it is extremely difficult, in a period immediately after a war, to assess and evaluate correctly and thoroughly, in the light of history, all the events and developments, when, in its wake, wrath, vindictiveness, acrimony, and politically twisted tendencies pervade the minds of people. I am certain of the impossibility of acting in such a way when all, even highly confidential, secret documents, are available to one party, while the archives remain closed for the other side.

However, I do not want to attempt the impossible here, i.e., to change the prosecution's version for the correct one, especially as this goes beyond the scope of my work. Whatever might have been the actual and true course of events and their backgrounds, I am sure that the defendants had a different conception at that time, because their knowledge and ideas were formed on the basis of entirely different documents and sources. Also, many facts which are now universally known were not known to the defendants at that time. Therefore, the picture sketched by the prosecution is subjectively false, to say the least.

Consequently, I am forced to correct this picture, at any rate insofar as it concerns the impression Admiral Schniewind was bound to have had of events and developments at that time. The prosecution version creates the impression that the tension be-

tween Poland and Germany did not commence until the years immediately preceding 1939, and was, in the most essential points, ignited by German propaganda moves and conceived in order to establish the necessary outward precedent to justify the acquisition of foreign territory by force of arms, which was the dream of the National Socialist leaders and enhanced by the warlike appetites of the militaristically minded officers. The prosecution takes pains, however, to avoid even hinting at the actual situation in those controversial border regions in the years after World War I, and making any mention at all of its development in the subsequent decade, although it certainly does not economize in using background material from that period.

However, matters are by no means as clear and self-evident as the prosecution would like to make them. I would like to try elaborating on this as briefly as possible.

I can assume that the German-Polish borders as fixed in the Versailles Treaty are known. The so-called, "Polish Corridor," was created, and the population living therein was just as little consulted as the people in the province of Posen [Poznan]. Unfortunately, the principle of the right of self-determination of the nations which had just been announced, did not apply to Germany. East Prussia was severed from the Reich, and became an island surrounded by Polish and Lithuanian territory. Even at an earlier date, the well known Polish nationalist Dmowski commented on this in a memorandum to Wilson on 8 October 1918:

"If East Prussia is to remain connected with the other German territories, Polish West Prussia, too, should remain in the hands of Germany. If East Prussia, as a separate German possession and disconnected from the bulk of the country by interposing Polish territory, does remain in the hands of Germany it is bound to become a constant trouble spot between Poland and Germany, which latter country will continuously endeavor to reinstate a connection at the expense of Poland. If Poland is to become a really free nation, independent of the Germans, there are only two solutions to the East Prussian problem: either the Province of Koenigsberg, that is, that part of East Prussia where the population speaks the German language, should be merged with the Polish State on the basis of an autonomous status, or it will have to become a small and independent republic, linked with Poland by a customs union."

The Polish nationalist leader himself admits here that for any length of time the corridor would mean a thorn in the flesh of Germany, a situation which did not present an alternative. Thus, right from the outset German-Polish relations were already overshadowed by an untenable situation.

Only there where Polish desires for allocation of territory at the expense of Germany would exceed all reasonable standards, was it agreed that a plebiscite be taken. It is true, the purely German city of Danzig, which the negotiators were reluctant to concede to Poland, was torn away from the Reich and transformed into an independent "free city," without a plebiscite. Thus, on 11 June 1920, a plebiscite took place in these parts of East Prussia which was conducted under the supervision of the Allies, and resulted in a majority vote of from 93 to 97 percent for Germany. In spite of this incontestable result, three villages in the Osterode district as well as five villages in the Marienwerder district were incorporated into Poland.

The treatment of Upper Silesia constitutes a particularly sad chapter. After protracted negotiations in which Polish requests were constantly backed up by France, a plebiscite was fixed for Upper Silesia, which province the Poles had claimed in its entirety. On 20 March 1921, the Upper Silesian people irrevocably decided in favor of remaining Germans. Out of 1,186,758 votes, 707,393 were cast for Germany, and only 479,365 for Poland. This overwhelming confession of loyalty to Germany, however, did not deter the Poles from pursuing their original aims. At the beginning of May 1920 [1921], the Polish plebiscite commissioner, Wojciech Korfanty, who had been appointed by order of the Allied powers for the mandatory plebiscite in Upper Silesia, and who was assured of the backing of French General Le Rond, unleashed the so-called first [third] Polish insurgents, which resulted in a tremendous wave of persecution against everything German, right under the very eyes of the French. Italian occupation troops who refused to connive at those machinations, suffered more than 300 fatalities during the fight against the insurgents.

This outrageous procedure, in view of the Versailles Treaty, induced Lloyd George on 13 May 1921, to make the following statements in the British House of Commons:

"The Allied commission unanimously decided that the parts which had cast an overwhelming vote for Poland, were to be ceded to the Poles. Right now, however, the Poles have staged an insurgence and put the Allies before a *fait accompli*. This step was a complete break with the Versailles Peace Treaty. If we do not deal with the situation squarely and fairly, this will result in ominous consequences for the peace in Europe. If Poland should be permitted to overrun this province, it really would mean trouble. In that event, Germany would have a right to say to the Allies: 'You have forced us to abide by our promise but what indeed did you do to make good your promises?' For us it is not only a question of honor but also of security when

we show that we abide by treaty obligations, regardless of whether they are for us or against us. It might quite conceivably happen that somebody says, so what, they are only Germans! But these people, too, have a right to claim everything that has been conceded to them based on treaty agreements. That the Poles should be permitted to take away Upper Silesia in complete disregard of the peace treaty, and that the Germans should not have the right to defend a province which has been theirs for the past 200 years, and which for 600 years certainly was anything else but Polish, would be an ignominious notion and unworthy of every country's honor."

On 12 [21] May 1921, the German self-defense formations fighting under ineffable odds, succeeded in recapturing the Anna Mountain in Upper Silesia, as well as in regaining other territories. When further German successes were imminent, the French occupation troops demanded a truce which was approved. During the session of the Supreme Allied Council, Lloyd George put forth the demand that the industrial area was not to be divided. However, when an agreement could not be reached there, a League of Nations commission was empowered to reach a decision; this commission, consisted of one Chinese, one Belgian, one Czech, one Brazilian, and one Spanish representative. The commission then decided that two-fifths of the industrial areas were to be ceded to Poland. Contrary to the incontestable result of the plebiscite, in the age of the right of self-determination for all nations, Germany lost her 321,342 hectares with 22 zinc foundries and 11 zinc and lead mines. Of 37 blast furnaces, Germany lost 23; of 67 coal mines, 53; of 14 iron milling plants, 9; and of 25 steel and iron foundries, 15. So innately inept, so absolutely contrary to all conceptions of sound economic thinking is this border demarcation in favor of Poland, that even the planners who conceived the creation of this European boundary, which is the most inadequate one next to the Polish corridor, themselves voiced the opinion that the torn and cut up Province of Upper Silesia would not be able to exist in this shape. Therefore, they demanded a special agreement. On 15 May 1922, an agreement was signed in Geneva which with the 606 articles and innumerable addenda and implementation regulations is one of the most voluminous legal texts of the entire post war period, and which in itself is probably the best proof that by the cutting up of Upper Silesia the conditions thus created were completely untenable.

Your Honors, such were the labors which accompanied the birth of the Polish nation. You will understand, I'm sure, that these facts were bound to cloud permanently German-Polish relations. Poland's fight against the predominantly German population

in Upper Silesia continued. It would lead too far even to produce a selection from numerous instances of this fight which lasted more than a decade.

However, as the only example I am going to mention, I would like to select the 1930 elections for the Polish Parliament and Senate. In order to prevent the German population from demonstrating their true opinion, the Warsaw Ministry of the Interior issued a decree according to which each voter was at liberty to hand in his ballot slip either openly or secretly. The decree furthermore stated that those who adhered to a secret ballot were to be considered enemies of the state. Encouraged by this decree, the chairman of the district election committee for the election precinct III in Katowice, issued the following written announcement:

“a. On election day, the chairman of election committees and their associates will appear in the uniform of the insurgents.

“b. Eight to ten insurgents will be present in each election room and keep the voters under constant observation, watching which kind of ballot slip they have in their hands and which slip they put into the envelope.

“c. Of course, in the election room itself no voter must be molested. However, for incidents that might occur outside the election room, the election commissar will not be responsible.

“d. All voters whose slips cannot be checked by the insurgents, will be considered opponents of the government party, and will be treated accordingly outside the election room.”

A grosser and more pronounced misuse of official authority for falsifying election results has hardly ever occurred.

Any person who is familiar with the Polish insurgents association can imagine what results these untarnished threats must have had. In this election, the Germans lost more than 100,000 votes. It is true that at a session of the League of Nations on 21 January 1931, the German complaints concerning the November 1930, elections were dealt with. For 45 minutes the Japanese Council Delegate Yosichova [Kenkicki Yoshizawa(?)] severely lashed out against and condemned the conduct of the Poles. However, no further action resulted from this. Liquidation measures of the German real estate in Poland accompanied those terror measures. Hundreds of thousands of Germans were forced to emigrate.

As early as 27 May 1927, the liquidation commission reported with satisfaction that it had liquidated 4,000 rural and 2,000 city estate properties, and that it had taken away from the Germans 200,000 hectares of real estate. Such were the conditions when in 1933 Hitler took over the responsibility for German policy.

Hitler's negotiations with the Polish Head of State, Marshal Pilsudski, which were climaxed by the conclusion of the German-Polish nonaggression pact of 26 January 1934, seemed to bring about a gradual easing of the tension. However, further developments showed that the genuine and straightforward desire of the Marshal to come to an understanding, found no reaction in certain circles of the Polish people. Even more pronouncedly after his death in the year 1935, did it seem impossible to improve the mutual relations.

Your Honors, I thought it fit to give you this brief account in order to show how very strained the relations were at Germany's eastern borders ever since 1919. I shall submit still further evidence in the course of my case in chief concerning further developments of German-Polish relations in the years prior to World War II.

Of the operations which apparently forced one country after the other into the war after September 1939, the prosecution has dealt in detail with the Norwegian campaign, as far as evidence against Admiral Schniewind is concerned.

As initial steps to prepare this operation on the part of the Germans were taken by an officer of the navy, the former Admiral Carls, and as the navy was predominantly engaged in executing this operation, in contrast to the other campaigns, I shall deal in still greater detail with this particular topic in my case in chief; I shall prove which facts were decisive for the planning, the preparation, and execution of this operation, and which part Admiral Schniewind played in them.

The Western campaign, the campaign against Yugoslavia and Greece, and the war with the Soviet Union, will be dealt with by me less specifically because of the subordinate part the navy played in them.

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E. Extract from the Opening Statement for Defendant Woehler*

DR. RAUSCHENBACH: The case of General Otto Woehler, for whom I am acting as defense counsel, appears to stand out among the other cases I have been privileged to defend before the High Military Tribunals at Nuernberg, in that it seems to me to be essentially decided in favor of the defendant before it has actually begun. A cursory inspection of the prosecution documents submitted against Woehler will suffice to show the Tribunal that the in-

* Complete opening statement is recorded in mimeographed transcript, 9 June 1948, pp. 5602-5624.

dictment hinges on his activities as Chief of the General Staff of the 11th Army and that the documents submitted dating from the time of his position as commander of the 1st and 26th Army Corps and Commander in Chief of the 8th Army are not suited to prove any punishable action. I am positive as to the assumption that Woehler would certainly not have been indicted solely on account of relevant occurrences in connection with the 1st and 26th Army Corps and the 8th Army. For the period of his office as Commander in Chief of Army Group South the prosecution has made no accusation against Woehler.

Thus, the happenings within the area of the 11th Army alone appear to me to be relevant. The prosecution has introduced a large number of documents at this point, by which they intend to prove: (1) the fact that Woehler had cognizance of criminal activities, and (2) the fact that he participated therein.

The events concerned, in particular the mass liquidation of Jews, certainly do not fail to provide a grim background for the case, although this only refers to the happenings as such. However, in answer to the question as to what the prosecution documents prove specifically with regard to the person of Woehler, it will be seen that Woehler has just as much or as little share in the events as other members of the armed forces, who, while not immediately connected therewith, occasionally, from hearsay and to a limited extent learned of such things.

Actually, the question as to the extent to which General Woehler had cognizance of the occurrences, and what participation therein he might be charged with, does not call for any examination at all in this specific case. I would refer to my initial observation to the effect that the case of General Woehler was decided before it had even begun. I have had the privilege of defending General Hermann Foertsch before Military Tribunal V, and my client was acquitted by the judgment of the Court of 19 February 1948, because the Tribunal did not hold him responsible by virtue of his post as Chief of General Staff, although it was explicitly established that Foertsch was acquainted with the criminal activities at least as well as his Commander in Chief, and that he had actually transmitted orders by the OKW, deemed criminal by the Tribunal, under his personal signature. At the time the prosecution—which they had refrained from doing in the present case—had alleged that Foertsch had in truth been the brains of the armed forces in the Southeast, and certain characteristics of his personality, as it appeared in Court, seemed to indicate that this assertion on the part of the prosecution was to a certain extent well founded. In order to prove that Foertsch bore no responsibility under criminal law, I had put in an extract from the, “Manual for General Staff

Duties in Wartime," together with a sworn expert opinion by the former Chief of the General Staff of the German Army, Franz Halder, and some ordinances from the Reich Law Gazette. The same documents are now before the Court in my document book 1,¹ I might say that the prosecution has introduced the, "Manual for General Staff Duties in Wartime," in its document book 2 as Document NOKW 1878, Prosecution Exhibit 42; however, for the convenience of the Tribunal I have deemed it advisable to reproduce the extract in question in my own document book. For the same reason I have also included the expert opinion given by Generaloberst Franz Halder in document book 1, although the witness was already examined by me in Court in connection with this matter. During the case against General Foertsch the prosecution had maintained that his position as Chief of Staff must not be adduced as exempting him from responsibility, in view of the fact that, in the trial before the International Military Tribunal, the Chief of the OKW, Keitel, whose defense on the same lines had been rejected, was sentenced to death. This argument on the part of the prosecution caused me, in the case of both Foertsch and Woehler, to submit certain ordinances showing in all clarity that the Chief of the OKW was on a level with the commanders in chief of the branches of the armed forces, possessed a definite scope of command, and was even authorized to issue laws and ordinances. He was thus, if only by reason of his unique position, on a plane which could in no way be compared with that of the chief of staff of one of the many field armies.

In my document book 1, I am offering to the Tribunal the principal reasons underlying the judgment rendered by Military Tribunal V on 19 February 1948.² They will be readily recognized as compelling, in that the judgment in the Foertsch case can lay claim to general validity with regard to the position of chief of staff with an army or army group. In the case of an army as a body, a precedent has thus been created and there remains only the question, which will not be examined in this connection, as to what importance as a principal can be accorded to this decision beyond the scope of any army or an army group. The objection—presumably to be expected from the prosecution—that the acquittal by Military Tribunal V was justified only in the specific case of General Foertsch, cannot be sustained, if only in view of the fact that during the same trial General Geitner, formerly Chief of Staff with the Commanding General in Serbia, was also acquitted, although it was established that he had initialed or

¹ Affidavit of Halder (*Woehler 2, Woehler Ex. 2*), was submitted in Case No. 7 (United States vs. Wilhelm List, et al.), as Foertsch 13a, Foertsch Exhibit 11.

² United States vs. Wilhelm List, et al., Case No. 7. Vol. XI.

signed orders for the shooting of hostages or prisoners held in retribution.

The acquittal of General Foertsch has an additional significance, extending beyond his actual case, in that this was precisely typical of extensive knowledge of events and prolonged advisory activities under several commanders in chief. The conclusion is more than obvious that, if a chief of staff with an army could in any way bear responsibility for criminal happenings within the area of an army, such findings would have been made in the case of General Foertsch. The fact that Military Tribunal V did not arrive at such a decision proves that responsibility under criminal law can never be directed against the commander in chief and the chief of staff simultaneously, just as military responsibility in the armed forces was never divided between commander in chief and chief of staff.

All that remained for Military Tribunal V to do was to ascertain whether General Foertsch might have transgressed the scope of his position as chief of staff and indulged in independent accessory activities in connection with criminal actions. The Tribunal has not found this to be the case, which includes any signatures Foertsch may have given on behalf of his commanders in chief.

When comparing the cases of Foertsch and Woehler, the Tribunal, after a mere glance at the documents submitted by the prosecution, will arrive at the conclusion that there is just as little, if not less, justification for holding Woehler responsible for any crimes committed within the army area. The reports submitted by the prosecution, referring to shootings of Jews, contained no proof of ever having reached Woehler. On the other hand, assuming that some of them did so, or that some of them were reported to General Woehler by whoever may have read them, this at the most shows—provided the prosecution is at all able to prove cognizance—that Woehler had limited knowledge of, but certainly bore no responsibility for any crimes, disregarding entirely the question of any participation therein.

In this connection I respectfully beg to draw the attention of the high Tribunal to the fact that, in accordance with Article II of Ordinance No. 11 of the Military Government for Germany, the pronouncement of a decision of the Court for the case of Woehler at variance with that given in the case of Foertsch would necessitate a plenary decision by a plenary session of all Nuernberg Military Courts. I am bringing a special motion to cover this case.

However, it is not only the military position of the chief of staff that in the case of Woehler, as far as the 11th Army is concerned, precludes any responsibility under criminal law. In con-

trast to the wording of Control Council Law No. 10 and the opinion of the prosecution, the Nuernberg Military Courts in sentences hitherto pronounced have always stressed the fact that mere "cognizance," "being connected with," or even "consenting," failed to constitute guilt under criminal law, and that at all times the defendant must have committed some personal causative act conducive to criminal results, or else must have omitted, in nonfulfillment of his duties, to intervene whenever by reason of his position and authority he might be considered bound and able to prevent criminal action on the part of others. For the convenience of the Tribunal, I have included the relevant extracts from the verdicts given by the Nuernberg Military Tribunals in my document book 1. It will be seen that exceptional clarity and remarkable consistency prevails as to the fact that, especially for these so-called, "War Crimes Trials," an unusually meticulous and painstaking determination of guilt must be undertaken, since at some point or other a limit must be defined where culpable criminality must end, while at the same time avoiding to establish a collective responsibility involving a whole group, which would be in contradiction to penal law in all civilized countries as based on personal guilt.

I do not wish to trespass on the limits of an opening statement by discussing that delicate problematic aspect of the Nuernberg Trials, which consists in the fact that, "international criminal law," is as yet entirely novel and undeveloped, and is in fact, being applied here in Nuernberg for the very first time. The uncertainty resulting from the variety of objective criminal facts is perfectly obvious. However, considering that the facts in themselves are already problematic—such as, for example, the question as to whether so far any violation of peace punishable under criminal law has existed at all, or what form an action should take to constitute a punishable "crime against humanity"—at least the conceptions of "guilt," and, "participation," as far as these problematic crimes are concerned, ought to be defined as precisely and as closely as possible. In voicing this opinion I am borne out by the verdicts given by the Nuernberg Military Tribunals. It is true that the latter have never expressed any doubt as to the validity of Law No. 10, as the original foundation of the trials, and that they have in each case maintained the concept that such novel crimes in fact exist and actually were committed. On the other hand, the Military Tribunals in the case of each defendant have very carefully examined the facts in order to establish whether his connection with the alleged crime was really punishable under criminal law, in other words, culpable. In quite a number of cases this procedure resulted in establishing that no culpable connection with the alleged crimes could be proved with regard to some spe-

cific defendant, although the prosecution in each case asserted that, in view of his position at the time, or of his knowledge of the crime, or his acquiescence therein, he was guilty as a participant in a conspiracy or even in definite acts.

The judgments so far pronounced by the Nuernberg Military Tribunals offer wide scope for interpretation, particularly as regards the question ranking foremost in the case of Woehler: In what does culpable participation in crime, as defined by Control Council Law No. 10, consist?

At the time when this law was promulgated and the Nuernberg Military Tribunals first convened, there were grounds for apprehension, in view of the terms of Control Council Law No. 10, Article II, paragraph 2, in connection with the wording of the indictments, that responsibility for crimes would swamp all notions, and to all intents and purposes establish collective guilt for all Germans, or at least for all those Germans who had occupied a position of any importance within the machinery of the State or the armed forces. In the course of my opening statement for the defense of the former SS Lieutenant General August Frank, in Case No. 4 before Military Tribunal II, I already ventured to point out that it was among the most difficult, although at the same time most important tasks of these tribunals to dissociate themselves from a species of nebulous and basically politically-minded, collective, guilt concept. I feel that in this, Military Tribunal II, in the case cited, has been just as successful as other Military Tribunals in other cases. I might add that, looking at the matter from the point of view of counsel for the defense, I am as yet by no means satisfied with the result, and that I am contending that responsibilities should be cut down still further but I do believe that as far as the case of Woehler is concerned, I have reason to be satisfied with the administration of justice as applied by the Nuernberg Military Tribunals—in other words, that it is such that responsibility under criminal law will be excluded in the case of Woehler as well.

So far the judgments given in Nuernberg have shown that the terms of Control Law No. 10, Article II, paragraph 2, defining participation, which originally had been extremely comprehensive, are in each case to be interpreted in accordance with the principles of penal law as applied in all civilized countries: that is to say that in every instance there must have existed a causal culpable action or omission on the part of the person responsible in order to secure his conviction under criminal law. These prerequisites had not originally been apparent from the wording of Article II, paragraphs 2 (c)–(f). When the trials before the Nuernberg

Military Tribunals began, we were thus faced with these alternatives:

Either Control Council Law No. 10 envisaged forms of participation which neither presupposed that the "perpetrator" had created a *conditio sine qua non* for the criminal result, nor that the action or omission concerned could be charged to him as guilt; or else that the forms of participation set forth under (c) to (f) were to be subject to the same requirements as to causality and guilt as were specified for cases in (a) and (b), which correspond to the familiar forms of participation.

The judgments hitherto pronounced by the Nuernberg Military Tribunals have made it clear that the second alternative is given preference, and I beg to refer to the examples in extract form which I have included in document book 1. From among these examples I will quote the following, taken from the judgment given by Military Tribunal V on 19 February 1948, page 10463 of the English transcript:*

"In determining the guilt or innocence of these defendants, we shall require proof of a causative, overt act or omission, from which a guilty intent can be inferred, before a verdict of guilty will be pronounced. Unless this be true, a crime could not be said to have been committed unlawfully, wilfully, and knowingly, as charged in the indictment."

As far as the 11th Army is concerned, it is quite true that General Woehler as Chief of Staff was bound to keep his Commander in Chief informed and to advise them, and direct the work of their staff, that he initialed drafts, and in routine matters personally addressed letters to subordinate officers, and that as Chief of Staff to a certain extent he held a superior military position—all of which, as far as the mere facts are concerned, is covered by Control Council Law No. 10, Article II, paragraphs 2 (d)-(f); but, in view of the foregoing, this does not suffice to convict the defendant.

If it is deemed the task of these Tribunals to establish, on the grounds of comprehensive historical material introduced into the proceedings by the prosecution in the form of a fairly arbitrary collective accusation, which of the defendants have incurred guilt under criminal law, then, quite apart from the need for careful differentiation between general political guilt, ethical guilt, and metaphysical guilt on the one hand, and criminal guilt, in a considerably reduced measure, on the other, the actual choice of defendants made by the prosecution might well call for critical examination. The obvious question arises: What caused the prose-

* Ibid.

cution to place General Woehler in the dock? Was it not merely the fact that, presumably owing to political reasons, it had been found impossible to indict the Commander in Chief of the 11th Army, Field Marshal von Manstein, or his superior, the Commander in Chief of the German Ground Forces, Field Marshal von Brauchitsch? Both field marshals are living, so that there are no grounds to maintain that, in the place of a superior who has died, at least his collaborators should be taken to task so that somebody may be indicted. General Woehler's qualifications as a substitute are thereby indicated. But there is no such thing as criminal guilt by way of substitution. A similar phenomenon in the realm of Himmler, known as "Sippenhaftung" (clan responsibility), is today being denounced by these very Tribunals as violating the laws of humanity. This in itself should provide sufficient reason for the Tribunal to experience particular misgivings with respect to the indictment of General Woehler; and I would therefore respectfully ask that the question as to whether General Woehler bears any guilt under criminal law in the happenings within the area of the 11th Army be given especially critical consideration.

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F. Opening Statement for Defendant Warlimont*

DR. LEVERKUEHN: The case against the German generals in all the counts of the indictment and in its historical background is a repetition of the proceedings before the International Military Tribunal against Goering *et al.*, though on a different level. The case against Goering was directed against the persons who were responsible for the political decisions and the building up of the Nazi regime. The generals were neither responsible for political decisions nor for the Nazi regime. But the prosecution takes great pains to picture the political background in such a way as if they had been responsible, by portraying them as members of a group or organization that exerted, and had for a long time exerted, a decisive influence on the history of Germany. This contention utterly misrepresents the facts. In the history of all countries military men have played their role in the political field, too. The Duke of Wellington was not only Britain's greatest soldier, but for a long period Prime Minister. British generals were Viceroy of India and held other positions of responsibility in the Empire. The first President of the United States was the general of the forces of the Revolutionary War. Ulysses S. Grant who brought the Civil War to an end was President for two terms.

* Tr. pp. 6264-6274, 18 June 1948.

MacMahon was a general in the war of 1870–71 and President of the French republic. There is, therefore, nothing peculiar if a general passes from the military to the political field.

German history does not furnish many incidents of this kind. Count Moltke who conducted the three wars preceding the establishment of the German Reich kept himself entirely out of politics. Only one of his successors, Count Waldersee, showed some political ambition, but his tenure of office as Chief of the General Staff was short. Count Schlieffen was a soldier and nothing but a soldier. The younger Moltke lacked political talents. It was only during the last years of the war, 1914–18, that Ludendorff exerted more and more influence on politics, and the consequence of his activities was that the propaganda of the leftist parties in Germany magnified the role of military influence in politics to such an extent that the good name of the army was beclouded in public opinion for long. As a result of this development, von Seeckt, who was responsible for the Reichswehr after 1919, decided to keep the Reichswehr entirely out of politics. He succeeded so completely that foreigners were frequently puzzled as to why military leaders in high positions after von Seeckt's time were so entirely inept politically and were unable to build up a front against Hitler. Here a lesson of history was heeded and actually translated into reality.

By the end of the 'twenties the Reichswehr had developed into that what an army should be, nothing but an instrument of the legitimate political leaders of the nation. Von Seeckt left only two political disciples among the generals of the higher commands: von Schleicher and von Hammerstein. A recent study by the German Chancellor Bruening who was the last prominent political figure before 1933, reveals that he, who is universally regarded as the last democratic chancellor, contemplated with these two generals the destruction of the growing National Socialist Party at the end of the 'twenties by using the army to crush it. He was only prevented from doing so by the resistance of von Hindenburg, who argued that the armed forces should not be used against any one party. If it was to be used, he decided, that should be done against the National Socialists and the Communists simultaneously. Bruening did not advise his cabinet about his plans, nor did von Schleicher and von Hammerstein advise any other generals about them; certainly, none of those who are now defendants in this case. I am emphasizing this in order to illustrate how feeble a plant the democratic idea was in the Weimar Republic. It must be almost unbelievable for men who have always lived under a democratic or parliamentary system of government that such a state of affairs could prevail in a republic; that instead of carry-

ing out the will of the people expressed in the elections, recourse to the armed forces appeared as the last resource to a chancellor.

The common soldier of the Reichswehr, as little as the Officers Corps, were aware of what the Reichswehr meant in the political game. They lived in a world of their own remote from politics. They had no vote. Their experience after the First World War was that the Reichswehr had been built up to combat the Communist forces and to defend the frontiers if necessary. It must be remembered that even as late as the summer of 1923 fighting was going on in the north of Berlin. I shall never forget the negotiations with American members of the Mixed Claims Commission in Berlin in that summer when our American partners grew restless during the discussions, and when we asked why, they countered with the question as to whether we had not heard the shots. Actually, we had not; we had gotten so accustomed to this noise as a daily routine that it did not strike us as noteworthy.

In the fall of 1923, the inflation period came to an end with the result that the small fortunes of the middle class from which most of the officers were drawn, were entirely wiped out. All the small savings that were the backbone for a higher education for the next generation and the source for the little amenities of life were gone. The salary of a first lieutenant, married, with two children, amounted in the years after 1923, to approximately RM 185 or \$45 monthly, a very small sum considering that a certain standard of life was expected to be maintained.

The growing unrest of the late 'twenties and the early 'thirties brought back to the mind of the officer, time and again, the danger of a new revolution and of new social upheavals. The party whose name contained the words, "national," and, "social," headed its program with the two problems which were vital for many Germans and above all the army officer: national dignity and social justice. There were other points of the program and there was the clamor of the political fight which gave considerable anxiety to the older and the middle aged generation in the army. But when President von Hindenburg decided to appoint Hitler, Chancellor, the army accepted his decision as that of a man who was not only unquestioningly trusted by the army, but equally by the whole nation, which had twice elected him president. He was not a statesman and never pretended to be one, Bruening pointed out. It was Hindenburg the man, whom all who longed for security and stability trusted.

Often it is pointed out that in the early period of Hitler's regime two things should have been a warning to the people: the squashing of the Roehm revolt in a way which was in conflict to German Law, and anti-Semitism. The army knew, as General

Halder stated in his testimony, that the Roehm revolt was a very real threat to the stability of the state and to the existence of the army. As far as anti-Semitism was concerned, the first measures purported to eliminate certain influences from the free professions and from the economic life with which the officers had, in general, no connection. Therefore, they could not weigh their importance. No doubt, Hitler's party was in certain respects revolutionary in character. However, it appeared less so than the other party which grew up on the left: the Communists. The choice lay between two revolutions, and certain revolutionary features had to be endured. As Hitler followed outwardly a perfectly legal course no reason for strong opposition existed.

It is a counterfeit logic—to use a Lincolnian expression—to claim that one or two points of a program, or certain distasteful phenomena in its implementation necessarily lead to considering the whole program and all steps of its realization reprehensible. The same argument could apply the other way; one might quite as well say that if certain points of the program and certain actions did recommend a man or a party, one might well feel justified to overlook evil results and acts. Neither political programs nor political activities can ever please all the people.

The army saw merely that the jobless were taken off the streets and that the foreign powers were willing to grant to Hitler's government all those concessions which they had declined to his predecessors. The naval agreement with England seemed to eliminate the one great danger which every German felt to be existing until that time: the needless rivalry between Germany and Great Britain. And when the Munich agreement had been concluded, Hitler's prestige as a national leader was at its climax.

His party had scored more votes before 1933 than any other party. He had, therefore, under a parliamentary system unquestionably the right to be called upon to form a government, and the Reichstag had given him exceptional powers by the so-called Enabling Act in 1933 with a vote of 441 to 94. Why should an army officer doubt that he was the chosen leader of the nation and hesitate to recognize him as his commander in chief? Why should he suspect that the power laid into his hands by the nation would be misused and drag the nation and all other nations in a most terrible war?

The army was a part of the German nation which has always displayed great respect for constituted authority, and coupled therewith, had boundless confidence in the purity of intention and the integrity of the authorities.

It was not that the army mixed in politics and built up the Nazi regime. On the contrary, the judgment of history will in all prob-

ability be that one of the principal sources of the tragedy of the last decades was that so large a sector of the educated and valuable elements of the German nation had kept themselves away from politics by too stringent an isolation into their professional sphere.

I consider it appropriate to devote some words to giving the Tribunal the historical perspective as seen from the German point of view at the time. Contemporary history moves so fast that it is very necessary to stop from time to time, and to reconstruct what has gone by and what occupied the thoughts and motivated the actions of men at a given period of the past.

We have grown up with the idea that the march of time does not affect or if so, only very slightly the laws once they are laid down, just as little as the courts that are set up to administer them. But even this idea seems to have become obsolete, and that is in a particular way true of the law under which this Tribunal is sitting, and the court from which it derives its precedents and to which it is tied by certain provisions of its statute: the International Military Tribunal.

The Government of the United States, under whose flag this Tribunal is sitting, has recently issued a publication, "Nazi-Soviet Relations 1939-1941," which purports to show that the Soviet Union instigated, and was a party to, an aggressive war. I understand it to be one of the fundamental rules of law, and of Anglo-American Law in particular, that a party must come into court with clean hands. It is the contention of the Government of the United States, as expressed by the recent publication, that this rule was violated in the IMT proceedings. If that is true, it must also be true that the laws which were issued under the same circumstances were faulty in their inception. If a court in the United States or in any other state would find that a law, either state or federal, was passed by a body not properly constituted, this state of affairs would have to be taken into account, and the constitutionality would be contested. Why should this fundamental rule not apply to this Tribunal? Should it be because it is an international tribunal? International law is not different in this respect. The rule is in fact particularly applicable here. For all international courts are based on the principles common to all national systems of law.

There is another point which is of the utmost importance for the international character of this Tribunal. International courts are based on the cooperation of the participating powers in creating them, and on their continued cooperation while they are functioning. This is not a theoretical point. It is very practical. The defense needed testimony from persons interned in camps in the British zone of occupation and in the Soviet Union. From the one,

the prisoner was not made available as witness before this Tribunal; from the other, not even testimony in writing could be obtained. And even from the archives of the United States, the documents, as far as they are in the hands of the prosecution, were not freely laid before the Tribunal nor accessible to the defense. This is in conflict with the rules of evidence and procedure developed in international law which provide that all parties to international proceedings are bound fully to disclose all pertinent facts and documents to the court.

The presentation of facts concerning the defendant, whom I represent, will demonstrate with great clearness what an injustice has been inflicted upon the defense by disregarding those fundamental rules of international law and I earnestly urge the Tribunal to keep this point in mind.

If sources of law and precedents applicable in this case are scant and as questionable as I just outlined—what does remain as a measuring rod? The simple rules of human behavior as developed in Western civilization and simple common sense. That means in this particular instance the conduct that would be fairly expected from an officer in any army anywhere.

Looking for some short phrasing of such standards I came across a few sentences contained in a letter addressed by a commander in chief to a general whom he had appointed to an important command—Abraham Lincoln to General Hooker, taking over the Army of the Potomac: “ * * * I believe you to be a brave and skillful soldier, which of course I like. I also believe that you do not mix politics with your profession, in which you are right. You have confidence in yourself, which is a valuable if not an indispensable quality. You are ambitious which, within reasonable bounds, does good rather than harm; but I think that during General Burnside’s command of the Army you have taken counsel of your ambition and thwarted him as much as you could, in which you did a great wrong to the country, and to a most meritorious and honorable brother officer. I have heard, in such a way as to believe it, of your recently saying that both the Army and the Government needed a dictator. Of course it was not for this, but in spite of it, that I have given you the command. Only those generals who gain successes can set up dictators. What I now ask of you is military success, and I will risk the dictatorship. The Government will support you to the utmost of its ability, which is neither more nor less than it has done and will do for all commanders. I much fear that the spirit which you have aided to infuse into the army, of criticising their commanders and withholding confidence from him, will now turn upon you. * * *

Neither you nor Napoleon, if he were alive again, could get any good out of an army while such a spirit prevails in it * * *.”

These are, I think, most of the vital elements of what an officer is to be and what he should avoid to be or to do. Besides that, it is a help in gaining the right perspective, if, by juxtaposition, one observes the superior gesture with which a president in a true democracy can waive aside the idea of dictatorship and then considers the life under a real dictator which these defendants had to live and which they could not alter without falling into the danger of becoming traitors to their country and violating their oath of allegiance.

It is easy enough to say today: You should have resigned! I doubt whether it is advisable for any military tribunal to endorse such a principle, I doubt also whether it is historically or morally justified to adopt such principle. To surrender a position in the Third Reich meant to surrender it to the SS or to another party organization. The administration of occupied Poland was a Party affair and it was there that the worst crimes were perpetrated; it was in Belgium chiefly in the hands of the army and it was there that the best order was maintained. And taking an even broader view: if a leading class emigrated in large groups it is easy to eliminate the rest until *tabula rasa* is established. That is what happened, gradually in the Soviet Union. With all the respect due to the devotion and sacrifice of the men who participated in the events of 20 July 1944, one can not stipulate as a general rule that an officer should kill his commander in chief.

What then is the rule. That an officer should do his duty as a soldier, that he should obey his orders, but that he should remain conscious of the fundamental rules of law and humanity, yet oppose and resist to the best of his ability such orders as are contrary to such rules.

Under such circumstances conflicts will inevitably arise in a dictatorship. Each case will have to be judged on its own merits, on the degree of pressure, the goal to be attained, the means at the disposal of the individual.

What was the position of the defendant Warlimont under the dictatorship of Hitler? The prosecution maintains that he was one of the highest military leaders. That is far from the truth. He was a general staff officer, without command power, head of a division with coordinating functions, the central administrative office of the High Command which had to draft and distribute orders which originated from superior officers. His position was inferior in responsibility and initiative even to that of a chief of staff of an important command which has been closely scrutinized by Military Tribunal V in Case No. 7 (Wilhelm von List *et al.*)

ending with the acquittal of the chief of staff. The influence which Warlimont was able to exert was small. He did not use it to emphasize or reinforce the orders which are to be condemned as the commando and Commissar Orders. On the contrary he tried his utmost—and in some instances successfully—to keep Hitler's intentions within the framework of international law, and when orders had been issued over his head that were to be condemned, he tried—and in many instances successfully—to prevent or mitigate their execution.

The charges against him rest chiefly on documents. His defense will depend mainly on the interpretation and on the correct reading of these documents. His efforts were by their very nature discreet and concealed or they would have been destined to fail from their very beginning. It is not easy to unearth today the things that were secret and concealed at that time and to prove them now. I beg the Tribunal to keep this in mind when the defendant is presenting his case.

The Tribunal has frequently expressed the thought that documents speak for themselves, that they need no explanation. That is true in a democracy. It should be true wherever common sense does prevail. It is not true in a dictatorship.

It was, I believe, Talleyrand, the foreign minister of a dictator who said that the language is to be used, not to disclose, but to conceal a writer's intentions. What might seem understandable in diplomacy at that time, had, in the age of Hitler, spread into all other fields of activity of the state. The legalistic language of the Third Reich provides ample opportunities for a study of this development.

Military orders were not free from it. From the top down it proved necessary to adjust Hitler's exaggerations to the realm of reality. Keitel in one of the rare moments of frank discussion observed to his ADC that he could not grant Warlimont's request to be relieved because he was the only officer of his staff who could draft an order in such a way that Hitler would adopt and sign it and yet would nevertheless give the troops enough leeway to act as they thought necessary. It will be necessary to develop before the Tribunal a strange picture of wrangling over words and phrases, of orders already determined basically by Hitler, then couched in terms which would defeat their very purpose or mitigate them or have them transmitted to a small group of persons only so that they might soon fall into oblivion. In the cases when Hitler had issued orders which were incompatible with the ethical concepts of an honorable officer, we will show how the defendant Warlimont cooperated with men who were of the same mind with him to prevent or circumvent the execution of such orders. It is

one of the regrettable handicaps of the defense, which I am certain the Tribunal will fully appreciate, that many of the men with whom he so cooperated like Admiral Canaris and General Wagner can no longer give testimony as they were killed by Hitler as his avowed opponents.

Warlimont is accused of having participated in starting aggressive wars. It is obvious that wars may be conducted offensively. The prosecution takes great pains to blur over the distinction between offensive warfare and aggressive warfare. It is the task of all general staff officers of all armies to make—each in his place—their contributions to plans which are laid down in preparation for wars in which their countries might be involved. That is their professional duty. It lies beyond their duty to make decisions, as to whether an aggressive war will be waged. It would set a dangerous precedent to say that they have to examine the question of whether offensive plans might be used for an aggressive war. The IMT has been very careful to limit the scope of responsibility for aggressive wars. It has nowhere objected to the participation of a man in the war efforts of his country, not even of Speer who was responsible for the whole field of the German armament production. Warlimont participated in the war effort as a general staff officer, but not in initiating aggressive wars.

While this Tribunal has been in session, the world has witnessed the beginning of a new war. The world has been staring at a spot on the map where it was to start on a given date. Is it an aggressive war? Who is the aggressor? Nothing could illustrate the terrible responsibility of deciding such a question more clearly than what we are witnessing in these days. The world does not seem to think that anybody expects of the soldier in the rank and file or of the officer on the staff, that they consider the distinction between offensive and aggressive action while they are doing their duty. This duty is to fight. The responsibility for that distinction lies elsewhere.

G. Extracts from the Opening Statement for Defendant Reinecke*

* * * * *

DR. SURHOLT: The charges made regarding mass killings of segregated Russian prisoners of war range among the most serious charges made before the Nuernberg Tribunals. On this point in particular documents are available, and although they are by no

* Complete opening statement is recorded in mimeographed transcript, 2 July 1948, pp. 7153-7178.

means complete they do exist in greater numbers as to admit of a comparative survey. They are documents of both sides, that is, both from the Party offices and from the Wehrmacht offices concerned—a fact which is of importance here.

What facts are disclosed by a comparison?

a. All documents by the Party, that is, the chief of the Security Police and the Security Service (SD), show the planning, the aim, and the execution of the mass murders as official duties in plain terms of stark realism. Anybody reading them, even if he has never heard of the charges made against Germany in Nuernberg, will realize what they contain. Their unmistakable terms need no comment.

b. The corresponding documents by the OKW/AWA do not speak with a single word of killings or any such intentions. The unprejudiced reader will remain unprejudiced even after reading them. These documents provide for one incidental and independent process as the task of the Wehrmacht, to wit, the transfer of certain persons, some of them politically suspect others politically reliable and useful, to the SD. The documents might cause a dispute as to whether the transfer of prisoners of war from the custody of the armed forces to the custody of the police is admissible under the Geneva Convention; they could not, however, convey the idea of thereby aiding and abetting mass murder. That, incidentally, is the sense in which they were understood by the agencies of the Wehrmacht which were concerned with them officially. Anyone losing good faith did not lose it on account of the documents, but because of learning additional external circumstances.

c. The documents of the Party show the directives of the armed forces openly as appendices, but fail to show that a single order by the chief of the Security Police and the Security Service is contained in the documents of the AWA, or that any such order is cited, or that it was sent to the OKW according to the distribution list.

These three distinctions in the processing of official documents and files must seem incomprehensible to any one who, like the prosecution, sets out from the concept of deliberate participation by the Wehrmacht. Here we are faced with a system consistently pursuing its aims—not allowing for any chance. Unnecessarily this is again quite clearly expressed in a document, i.e., the one containing the so-called Protest Canaris'. (*EC-338, Pros. Ex. 253.*) Therein Canaris complained about the fact that the Wehrmacht, "had no knowledge of the directives of the police for the

segregation," and Keitel turned down the complaint of his office chief with the marginal note, "Very expedient."

In this instance Keitel represents Hitler and the Party at the same time. Here is the dividing line as to knowledge of good or evil. The solution to the problem is found in Hitler's position from whom Keitel in his direct official subordination cannot be separated. In the person of Hitler two antipodes, Party and Wehrmacht, find their joint head and limitation. As Supreme Commander of the Wehrmacht, "General Nazi Hitler," who was never a general, betrayed the Wehrmacht to the "Nazi Party." The convenient, "red tape" serving this end was Hitler's Basic Order No. 1, which I believe is well known to the Tribunal.

Nobody must know, nobody must know more of a matter, nobody must know in advance of anything, unless Hitler so wills * * *. Such was the conveniently movable scene, decorated with a warning skull, which prevented and prohibited insight into the ins and outs of foul play, even for the cast.

I do not overlook in this respect that Hitler also required the Wehrmacht to comply with plain orders for killing, which could not be fully justified even by the bitter truth that war is the enemy of life. Still, these were orders by the pseudogeneral in the military sphere, directed against the external foe and invoking military necessity. These orders may have seemed reasonable to Hitler as the Supreme Commander of the Wehrmacht, but they were—as has been demonstrated in this very trial—inwardly rejected by his generals and, as far as possible, alleviated or not carried out. Thus, the orders openly providing for the killing of the enemy in certain cases occurring at the front is only an *argumentum e contrarie* for the dishonest withholding of the truth as outlined above.

The result remains: It is the loss of the interior war, it is the heritage of the Party and its supreme leader, which have brought the Wehrmacht to Nuernberg—a fact which is only confirmed by the never absent exceptions. The prosecution is in a certain sense the executor of the Party's last will and testament.

The principles, and therefore the sides, are clear and I shall now counter the presumption of guilt as submitted by the prosecution with the questions: Was Reinecke a Nazi general? What side did he take in the internal struggle? Or rather, was Reinecke a Nazi or a general?

It is not surprising that at this point the testimony of a German general, Eugen Mueller, stands out in our memory who swore an oath—so to speak—on the Party adherence of his comrade Reinecke.

I am grateful to the prosecution that, by this testimony, they reduced the factors which bear on the case to a concrete denominator. This witness himself signed incisive orders, which he accepted, just like his Commander in Chief von Brauchitsch, because they had to be accepted as "Hitler Orders," in spite of protests. He opposed Reinecke, of whose activities in prisoner of war affairs he admittedly knows nothing, as an ideological opponent and follower of the Party. His conclusions are based on the same outward appearances to which the prosecution has fallen victim. Mueller's testimony consists of conclusions without facts. Yet, it is the facts that matter.

What were the conditions under which Reinecke had to work? In this struggle of the Party against the Wehrmacht no position existed which could in any way be compared in difficulty to that of the Chief of the AWA. For factual reasons, not because of the person of the office chief—unless the Fuehrer issued orders from above—this office was the gate for the penetration of the highest Nazi Party agencies into the Wehrmacht.

The General Wehrmacht Office, AWA, was as its name indicates, the collecting center for all those matters which were outside the sphere of military leadership and did not belong to the clearly defined competency of other offices of the OKW. That was not Reinecke's fault; as Chief of the AWA Reinecke had to put up with it. This also explains why the AWA had to suffer a Party man who, as liaison officer between Keitel and Hess, and later Bormann, enjoyed an extensive right of supervision and, as a means of pressure and a stool pigeon of the Party had to exert the necessary pressure on the Wehrmacht for the aims of the Party. If Reinecke had been such a 100 percent reliable Nazi there would not have been any need to separate the "Chief of Special Assignments with the OKW," from the person of Reinecke. As it was, however, the personnel division reveals the dualism and the contrast.

With the means of opposition available to Reinecke in this struggle against the Party, resistance obviously was futile. It is of no importance in this connection whether the demands from the Party came via Hitler, Keitel, or via the Chief for Special Assignments with the OKW. Any success could only be gained by tactical means and such success, being of a purely defensive nature, could in practice never appear in favor of Reinecke, while for everything which came into the Wehrmacht from the Party via Keitel and the AWA, because rejection was impossible or it had to be accepted for tactical reasons in order to save more important issues, the blame was automatically put on Reinecke. What Reinecke is charged with is therefore the outward appearance and the thank-

lessness of his position; what exonerates him, is the reality of the work which he was able to perform in spite of his position. And with this I will briefly deal in my case.

On behalf of Reinecke, who is alleged to have been a Party follower in all ideological questions, I am going to prove that until the very end, and successfully, he upheld the incompatibility of Party membership and professional soldierdom against intensive and incessant attacks by the Party; that he prevented the subordination of Wehrmacht employees under the German Labor Front of the Party; that he protected his subordinates, whose removal was demanded by the Party for racial or political reasons; that he was the man who maintained religious services for the Wehrmacht; that this, "Party minded General," disregarding personal disadvantages, stood up for the persons concerned wherever he came in touch with the fate of the Jews. This is true both for individual cases where Jews and persons of mixed blood asked for his help because they knew him, as well as for cases where he was officially contacted, as in questions of Jewish veterans of the war 1914-18 and Jewish PW's whose transfer to the SD he was able to prevent.

Anybody who in view of that still calls Reinecke Party minded never had any experience with the Nazi Party courts set up to rule on such questions from a dogmatical point of view.

Furthermore the course of the war shows the weaker the Wehrmacht became, the stronger became the Party, both in its pressure as in its demands. For this development Reinecke is not responsible. His position in the war of the Party against the Wehrmacht was, in all questions where human decency was at stake, on the side of the Wehrmacht. He did his duty in the sphere of what could be expected from him in his position.

Regarding the extent of Reinecke's responsibility, it is essential to know the purport of his position as Chief of the AWA. What authorities did he possess to make decisions, what possibility did he have to oppose? His position as office chief needs neither to be exaggerated nor minimized, yet it seems necessary that it be clearly defined according to what it really was, and therefore the submissions by the prosecution stand in need of correction. I am going to adduce evidence in proof of that.

In the hierarchy of command, Reinecke ranks below Hitler as Supreme Commander of the Armed Forces and Keitel as Chief of OKW or rather Chief of Staff of OKW, among the third group the rank group of office chiefs although it should be noted that Reinecke as the only one of the office chiefs, had no tasks of military leadership but mainly tasks of a military-administrative nature. His position corresponded to one of a ministerial director

in the civil service. In the negative his official as well as his personal position is clearly defined by the fact that this man was admitted to Hitler's presence for a report only once in his life, this in the presence of Keitel in January, 1944.

The setup and the sphere of tasks of his office I am going to show to the Tribunal by way of diagrams. This will be the opportunity for an essential clarification. A very few agencies outside the OKW were officially subordinated to him personally on account of special authorization. Here Reinecke assumed direct official responsibility. He issued the instructions and directives which governed the activities of these agencies. Here, and here alone did he hold executive power and power of military command in a certain sense. His "soldiers" were the inmates of the great Military Orphanage and the Invalids' Home, the personnel of the Wehrmacht Training Schools for Civil Professions, and the Relief and Pension Offices. The directives and the orders issued to these agencies went out under the heading, "The Chief of the General Wehrmacht Office," and were signed by Reinecke himself with his name or on his instructions by the competent office groups, section chiefs, or experts of the AWA with, "I.A." denoting, "by order of."

The documents submitted by the prosecution from the field of the AWA do not emanate from this sphere, where Reinecke held the power of command, and are not addressed to these agencies, because they bear the heading, "The Chief of OKW," or, "The High Command of the Armed Forces." Without exception they are signed by Reinecke, if not by Keitel himself, by giving emphasis to the issuing authority with, "Der Chef OKW," or by his competent office groups, section chiefs, or by an expert. The form in which these papers had to be signed was not a matter of one's own choice, but the outcome of official authority.

The signing of a paper with, "im Auftrage," by order, according to German law, means that the person commissioned to sign it is acting, as far as his superior is concerned, only on account of special or general instructions to do so. In principle it is thereby expressed that the contents of the document do not emanate from the power of the person signing it and that for everybody outside the office of the person giving the commission, in this case the Chief of OKW, takes the sole responsibility for all these orders and directives and their execution.

It is highly doubtful whether in these proceedings the term, "Im Auftrage," (I.A.) by order of, signed, "x" has been correctly interpreted by using the term, "by order." In the American Army all orders emanating from an agency, unless signed by the chief himself, are signed, "by order," or, "by order of Major X," in

cases where the chief of the agency holds the rank of field officer. If the order emanates from an agency whose chief belongs to the rank group of general officers, the orders are signed, "By Command."

Both translations do not convey that the German way of signing "Im Auftrage," only indicates the carrying out of either generally or specifically given instructions. It would therefore be more correct to say in the translation of the term, "Im Auftrage:" "acting on instructions."

Thus the signing of such decrees by Reinecke on the one hand proves that they were not the result of any competency of command of his own, and on the other hand it does not preclude the fact that Reinecke, in spite of passing them on, did not agree with them, for he could neither prevent nor rescind them.

Since he had no access to Hitler, his possibilities of opposition were restricted to raising objections with Keitel which were sometimes repeated four or five times until they were categorically turned down.

Could the withdrawal not be attained at the higher level, he often delayed the passing on to lower levels or alleviated the execution. By doing so he already violated his duty of military obedience.

Reinecke attempted to escape from his sphere of tasks. His repeated requests for assignment to the front were rejected, because it was said that as an expert on tasks of military administration he could not be replaced. His request which he made twice to release him from his post was turned down with the remark that leaving the service in time of war meant desertion.

In this way he was forced against his own will to remain in his office and position, and to endeavor to counter violations of law to such an extent as could possibly and reasonably be expected. Reinecke will stand up for all who worked under him, but he has neither the duty nor any other cause to take official responsibility for things which not only were removed from his power of decision but were forced upon him against his resistance.

* * * * *

The prosecution's point of view that the [Geneva] convention contains only generally accepted usages of war and that it is, therefore, under all circumstances binding, even if the enemy should not apply it, would seem to confound the theoretical purpose of a project with its practical regulation.

War is a fact which from the aspect of international law, for instance, is regulated by the Geneva Convention of 1929. Every war, in the last analysis, is fought for the life of a nation. That

is the purpose, at whose border any moral obligation ceases to exist. The regulation of food supplies in times of famine, for example, has the purpose of ensuring the life of the citizens. But no citizen has the duty to observe such regulations to the point of death. The laws of nature are everlasting. Let the nations abolish war. As long as it prevails, reciprocity will be the prerequisite for the application of its laws. Such is the usage of war ever since man has waged war.

The principle of "*tu quoque*" will, therefore, always have to be recognized in international law. It signifies adaption to the conduct of the opponent who disregards the convention. Such conduct has to be endured while reprisals serve as a means of pressure to obtain its discontinuation.

Thus, the principle of "*tu quoque*" is not a reprisal, although closely akin to it (compare: Herbert Krauss, "Control Council Law No. 10," published by Rechts- und Staatswissenschaftlicher Verlag G.m.b.H., Hamburg, 1948). The judgment of the IMT, Volume I, page 354 of the German edition, followed this principle in its opinion on the U-boat war carried on by both sides using the same means. It will be applied as long as the yardstick of law has 36 inches for all; and I believe this to be the very prerequisite of all justice.

IV. ORGANIZATION OF THE GERMAN ARMED FORCES—SELECTIONS FROM THE EVIDENCE

PARTIAL TRANSLATION OF DOCUMENT NOKW-2708
PROSECUTION EXHIBIT 41

EXTRACTS FROM GERMAN ARMY MANUAL 90, "SUPPLY OF THE
FIELD ARMY," JUNE 1938

H. Dv. 90

Restricted

SUPPLY OF THE FIELD ARMY

(V.d.F.)

Part I

Reprint with supplemented sheets 1 to 5¹ and handwritten
corrections in appendices 1b and 1c²

Printed by the Reich Printing Office, Berlin 1940

Commander in Chief of the Army
Section 6 (IV) General Staff of the Army
Nr. 500/38 Secret

Berlin, 1 June 1938

I authorize the directive *Supply of the Field Army (V.d.F.)*,
Parts I and II.

Changes and additions require my authorization.

Signed: VON BRAUCHITSCH

I. General

1. The *Field Army* has to be supplied with everything that is necessary for the maintenance of its efficiency and has to be freed of everything which could diminish its usefulness.

Everything which serves this purpose will be comprised by the term, "Supply of the Army."

2. The supply of the army is a part of the waging of war. It can decisively influence its progress in general and in individual instances. Its structure and its effectiveness, especially the safe-

¹ Not reproduced herein.

² Ibid.

guarding of the supply, are already to be taken into consideration in the planning stage of an operation. Knowledge of its principles as well as understanding of their tasks and accomplishments must therefore be required from the leaders in all ranks.

* * * * *

II. Authorities for Army Supply and Channel of Command

AUTHORITIES FOR ARMY SUPPLY

8. Authorities for army supply are:

The Generalquartiermeister (Gen. Qu.)¹ with the High Command of the Army [OKH].

The 2d General Staff Officer (Ib) with the Army Group Command.

The Oberquartiermeister (O. Qu.) with the Army Command [AOK].

The Quartiermeister (Qu.) with the Corps Command.

The 2d General Staff Officer (Ib) with the Division Command.

The GENERALQUARTIERMEISTER (Gen. Qu.)

Appendix 1a²

9. The Generalquartiermeister is subordinate to the Chief of the General Staff of the Army [High Command]. According to his directives he directs and supervises the supply of the army in its entirety. He has to accomplish by farseeing measures that the efficiency of the Field Army is maintained.

He has to be kept informed by the AOK's (O. Qu.) on the supply situation of the armies. He takes steps if the uniform direction of the army supply and the execution of the applicable directives make it necessary. In all questions which pertain both to the Field Army and other elements of the armed forces, he requests the decision of the Commander of the Armed Forces if doubtful cases arise.

The supply of munitions; means of protection against gas, weapons, armored units; gasoline and oil, tires, horses, and building materials will be handled individually by the staff of the Generalquartiermeister according to requests by the AOK's. The other supplies are requested by the AOK's directly from the commander of the Replacement Army and/or the assigned installations of the zone of the interior. In this respect, the Generalquartiermeister only intervenes if the over-all supply situation makes it necessary.

¹ See Glossary, Appendix A, Vol. XI for explanation of abbreviations and terms.

² Not reproduced herein.

The Generalquartiermeister in agreement with the Chief of the Operations Section suggests to the Chief of the General Staff of the Army the rear boundary line of the area of operations* which, in turn, is then ordered by the Commander in Chief of the Armed Forces. He regulates, if the tactical lines of separation are not sufficient, the boundary lines between the armies. This way the army territories are formed.

* See [Section] III.

He suggests, if necessary, the evacuation of territories threatened by the enemy.

He deals with the basic directives according to which the AOK's in their army territories regulate the administration and exploitation of the country. The civilian delegate with the High Command of the Army acts as his adviser in this matter.

In cooperation with the counterintelligence group, he regulates the traffic of persons (passports and identifications), isolation measures, etc., the employment and/or the transfer of prisoners of war and civilian internees, as well as the supervision of communications (postal, package, telephone, carrier pigeons, wireless, and teletype) within the area of operations of the army.

He decides about safeguarding and use of large stocks (including booty). A liaison officer of the Military Economics Staff is at his disposal for the handling of questions of military economy. If reserve stocks accumulate above the direct need of the field army or if they are of importance for the war economy, the Generalquartiermeister reports them to the Commander in Chief of the Armed Forces and receives from him further directives for their use.

In transportation matters, the chief of transportation is to be consulted. With his approval, the Generalquartiermeister establishes the lines of communication in the rear of the armies (railway, highways, waterways, etc.) and assigns transfer points, as a rule one for each army.

The Generalquartiermeister disposes of the movable supplies of the High Command of the Army as well as army troops (rear services). In time he suggests replacement and reinforcement by new formations.

He regulates the supply of the units and army troops directly subordinate to the High Command of the Army.

Furthermore he gives directives for the distribution of gifts within the Field Army and regulates their shipment with the domestic authorities.

The 2d General Staff Officer (Ib) with the Army Group Command

10. The second General Staff Officer (Ib) is subordinate to the chief of staff of the army group. He keeps informed about the

supply situation of the subordinate armies and reports about it to the Commander in Chief of the Army Group.

The Army Group Command, as an operational command authority between the High Command of the Army and the subordinate armies, is not permanently linked with the chain of command of army supply. It will only intervene through the issuance of directives if urgent circumstances make it necessary. This may occur in case of major troop movements as far as the supply of munitions, means of defense against gas, as well as gasoline and oil supplies are concerned, or in the course of major combat actions as well as during determination of army boundary lines.

The units and detachments directly subordinate to the Army Group Command are being supplied by the command authorities in whose territory they are billeted.

The OBERQUARTIERMEISTER (O. Qu.)

Appendix 1B¹

11. The Oberquartiermeister is subordinate to the chief of staff of the army [tactical unit]. According to his directives, he regulates the supply of the army within the framework of the directives issued by the High Command of the Army (Gen. Qu.). He keeps the Generalquartiermeister regularly informed about the supply situation.

He reports to the commander in chief of the army [tactical unit] about the supply situation in general. In this respect, he is under orders to mention difficulties in the supply of the army, already experienced or to be expected insofar as they can be of influence to combat actions. He regulates the division of the army territory into a fighting and an army rear area. He communicates directly with the Generalquartiermeister or the commander of the Replacement Army in matters of current supply of the army.

He gives to the Chief of the Civilian Administration with the AOK* by order of the commander in chief of the army, the military directives for the civilian administration in the army territory and the use of the indigenous supplies of the country.

* See [Section] III.

Depending on the situation, he keeps the supplies of the army movable in railway trains, barges, and in supply columns, or causes the construction of munitions and supply dumps, etc., and assigns the motor pools. He exploits the indigenous means of the country for the replacement of supplies. He requests missing material.

¹ Not reproduced herein.

He issues directives for the collection and return of weapons, munition, parts of munition, and containers left on the battle field.

A liaison officer from the war economics staff is at his disposal for advice on the use of armament installations and for dealing with war economic questions.

He offers to the High Command of the Army (Gen. Qu.) supplies which exceed the direct needs of the army, as well as major installations which are not necessary for the supply.

The Oberquartiermeister assigns to the army corps and divisions the rear communications and, if need be, subordinates to them rear services.

He gives regulations for road construction* as well as for the handling of the Ordnungsdienst in the army territory. He directs measures of evacuation ordered by the High Command of the Army.

* See 34-41.

The QUARTIERMEISTER (Qu.)

Appendix 1c¹

12. The Quartermaster is subordinate to the Chief of Staff of the Army Corps. According to his directives he handles the supply within the area of the Army Corps. He reports to the commanding general about the supply situation. In current matters of supply he communicates directly with the Oberquartiermeister and the Second General Staff Officers (Ib) of the divisions by order of the corps command.

The Corps Command (Qu.) directs and supervises the supply of the subordinate units in all the fields of supply. In time, it makes the necessary requests at the AOK on the basis of reports and requirements and regulates, if need be, a uniform distribution of supplies within the Army Corps.

The Corps Command (Qu.) regulates, on the basis of directives of the AOK (O. Qu.) the Ordnungsdienst within its territory of command. It designates the supply roads for the divisions as far as they are not already assigned by AOK.

Reserves and supply dumps are assigned to the corps command for self-administration only in exceptional cases. It can, however, be entrusted with special tasks, for example, with the direction of the replacement of supplies from the country. The direction by the corps command has to be more stringent the tenser the situation, and the more difficult the supply conditions become. It can consolidate for this purpose the rear services of the divisions.

¹ Not reproduced herein.

Appendix 1d¹

13. The Ib is subordinate to the First General Staff Officer (Ia). According to his directives, he handles the supply of the Division. On the basis of requests and/or supply reports by the troops, he makes his requests to the Corps Command (Qu.) He has to see to it that the troops are supplied in time and in sufficient quantities with everything they need. He has to keep the division commander continuously informed about the supply situation. He directly communicates with the Quartiermeister—in case of divisions directly subordinate to an AOK with the Oberquartiermeister—in general matter of supply, by order of the Division Command.

The Division Command (Ib) has rear services available for the supply of the subordinate troops and, according to plan, is equipped with supplies of all kinds which are to be kept movable by the transportation of the division. The construction of dumps for munitions, supplies, etc., as well as the immobilizing of supplies in loaded railway cars and trains has to be limited to exceptional cases.

The Division Command (Ib) can request from the corps command (Qu.) the replacement, relief or reinforcement of its rear services by rear services of the army corps and/or of the army.

ISSUANCE OF ORDERS*

14. The direction of the army supply requires far-seeing thought and disposition. Initiated measures often show results after some days.

* See part II, supplement, for details regarding issuance of orders.

The general staff officers (Quartiermeister) responsible for the supply must therefore be informed continuously about the situation and, as early as possible, about the intentions of the leadership.

The experts receive, without regard to their rank, directives for the supply from the Quartiermeister. Their suggestions for orders already phrased as orders are to be examined by the Quartiermeister, coordinated and then incorporated in the, "Special Directives."

One has to differentiate between, "Special Directives for the Supply," and, "Special Directives for the Rear Services."

* * * * *

¹ Ibid.

III. Area of Operations of the Army

BOUNDARY LINES AND DIVISION

18. The area of operations of the Army is that part of the war territory in which the Field Army is operating.

The rear boundary line of the area of operations of the Army is determined by the Commander in Chief of the Armed Forces on suggestion of the Commander in Chief of the Army.

The area of operations of the army is divided into army territories. Their boundary lines against each other are ordered by the Commander in Chief of the Army.

19. The army territory is divided into a battle zone and an army rear area. The division is determined by army orders.

The battle zone is to be kept as small as possible. Its depth depends on the situation and generally is to be limited to the territory of the divisions, and army corps which are in the front line.

The army rear area reaches from the rear boundary line of the battle zone up to the rear boundary line of the area of operations of the Army.

REGULATION OF COMMAND AUTHORITY

20. In the area of operation of the army, the executive power resting with the Fuehrer, and Reich Chancellor is being assumed by the Commander in Chief of the Army and the commanders in chief of the armies.

Executive power includes the whole authority of the state without prejudice to the independence of judges.* The holders of the executive power can issue, within their sphere of command, law decrees which may deviate from the existing laws.

* No decision by judges can be influenced.

They can give directives to all authorities, except to the supreme Reich authorities or to the supreme Prussian State authorities as well as to the offices of the NSDAP.

21. The Commander in Chief of the Army regulates the exercising of the executive power by the commanders in chief of the armies. He has at his disposition the civilian delegate with the High Command of the Army, for the handling of all matters of the civilian administration in the area of operations of the army.

22. Within the area of operations the Commander in Chief of the Army and the commanders in chief of the armies are given authority to exercise the executive power.

The executive power contains the exercise of all state authority in the area of operations within the directives issued by the

Fuehrer without prejudice to the independence of the judges.* The holders of the executive power can issue in their sphere of command legal decrees which may deviate from the existing laws.

* Commanders who are authorized to exercise the executive power in a part of the zone of operations of the army have the same rights as the commanders in chief of the armies.

The commanders in chief of the armies are bound by the directives of the Commander in Chief of the Army in the exercise of their executive powers. They should, if possible, issue legal regulations only after examination by the High Command of the Army.

The holders of the executive power can give directives to all authorities, except to the supreme Reich or supreme Prussian State authorities, as well as to the offices of the NSDAP.

23. The commander of the army rear area (Kdt. rueckw. A. Geb.) belongs to the rear services of the army. He is directly subordinate to the AOK and has the position of a division commander.

24. The chief of the civilian administration with the AOK (Ch. Zw. Verw.) is appointed by the Reich Minister of the Interior on request of the High Command of the Army. He is subordinate to the commander in chief of the army professionally to the Reich and Prussian Minister of the Interior according to civil service law.

DUTIES AND AUTHORITIES OF THE COMMANDER OF THE ARMY REAR AREA [KORUECK] AND OF THE CHIEF OF THE CIVILIAN ADMINISTRATION WITHIN THE ZONE OF THE INTERIOR

25. The commander of the army rear area has the following duties:

Military security of the army rear area including army installations; execution of counterintelligence measures according to the directives of the AOK (Ic/A.O.); billeting of troops, and establishing army installations; assignment of the Ordnungsdienst; maintenance and reconstruction of roads important for the conduct of the war; employment of the civilian population for services with the help of the civilian administration authorities in cooperation with the chief of the civilian administration; supply and removal of prisoners of war as well as their assignment for labor. Further duties can be transferred to him by the AOK from case to case.

26. The Chief of the Civilian Administration with the AOK [army], uniformly directs the whole civilian administration in the

army territory, according to the directives of the Commander in Chief of the Army.*

* Combat area, see 22.

He exercises the authority belonging to the Commander in Chief of the Army toward the civilian administration and civilian population by his order. He intervenes with the course of administration only if the needs of the army make it necessary.

He is responsible that the measures taken by the civilian administration in the area of operations are in conformity with the military necessities.

He can issue directives for the whole civilian administration in the army territory without encroachment upon the independence of the courts. All civilian authorities of the army territory are subordinate to him in this respect. Excepted are the authorities of the transport organizations (railway, Reich Autobahn, waterways) as well as the offices of the Reich postal service.** The liaison officer of the military economics staff with the AOK is competent for armament plants.

** The authorities of the transport organizations receive their directives from the military transport offices; the offices of the German Reich Post for teletype services from the army chief signal officer; for postal services from the Oberquartiermeister.

The chief of the civilian administration has especially the duty to keep the administration and the economic life going and to take care that a legally satisfactory state of affairs prevails within the army territory.

According to the directives of the AOK's, he supervises and regulates civilian traffic. He is in charge of the civilian air raid protection within the combat area, as far as the situation permits according to the directives of the AOK's; and in the army rear areas, according to the directives of the competent air district command (Luftgaukomandos).

27. The chief of the civilian administration chooses his seat of office with permission of the Commander in Chief of the Army, as a rule within the army territory.

For permanent liaison with the AOK he appoints an administrative official of the higher service to the staff of the AOK (O. Qu.). In the same way, a liaison officer of the AOK is assigned to the staff of the chief of the civilian administration as permanent military adviser.

IN ENEMY COUNTRY

28. The whole administration of the army territory is directed by the AOK (O. Qu.) according to the directives of the High Command of the Army (Gen. Qu.) in self competency. Military points of view are of prime importance. All orders and measures of su-

preme Reich authorities and of offices of the NSDAP need the approval of the Commander in Chief of the Army for their becoming effective.

29. The commander of the army rear area whose staff has to be enlarged, if necessary, generally has the same duties as in the zone of the interior (see 25).

The division of his authority as against the duties of the chief of the civilian administration depends on the special circumstances in the army territory and has to be regulated from case to case.

30. The chief of the civilian administration, as an organ of the Commander in Chief of the Army and according to his directives, directs the whole civilian administration in the army territory. The limitations pointed out in 26, paragraph 4, remain in force also in enemy country.

He takes care that order is reestablished with the advance of the fighting as soon as possible, and an administration capable to work is formed.

Morale and attitude of the population are important. Their economic interests should be taken into consideration as far as possible. They include measures for providing food and health, for regulation of the postal service, administration of justice, the finance and school system, the church, the civilian air raid protection, etc.

Indigenous organs of administration should be retained as far as possible. Often it will be practicable to appoint reliable persons in addition to them.

The chief of the civilian administration can appoint distinguished and reliable persons from the indigenous population in cases where the former chiefs of the district, county, and community administrations have fled or if their further remaining in office seems impractical.

Necessary further administrative personnel can be requested from the High Command of the Army (Gen. Qu.) which will induce the competent supreme Reich authorities; especially the Reich Ministry of the Interior to provide it.

The chief of the civilian administration regulates the employment of the civilian population for services. He takes care of the use of the country and its resources according to plan.

Large stocks have to be safeguarded and to be reported to the OKH (Gen. Qu.). The structure of the administration depends on the prevailing military and political situation and must be adapted to the circumstances of the country in question.

It may become necessary to enlarge the staff of the chief of the civilian administration.

* * * * *

IV. Provost Service [Ordnungsdienst] in the Area of Operations

Appendix 2

34. The provost service in the area of operations of the army contains—

a. In our own country: the military police protection and security service; the military traffic service (traffic supervision and traffic regulation); the evacuation of prisoners of war.

b. In enemy country: in addition to the duties under *a*, all regular police activities.*

* The term "regular police" [Ordnungspolizei] includes: traffic, judicial, administrative, foreigners and registration, veterinary, game, health, industrial, fire, rural and forestry police, and measures concerning civilian air raid protection.

35. For the execution of these tasks, the provost services are employed in close cooperation with the secret field police.

All command authorities have at their disposition military police [Feldgendarmarie] units, the AOK's, in addition to them guard battalions, military administrative headquarters, and local administrative headquarters I and II.

36. The AOK (O. Qu.) gives the regulations for exercise of the provost service in the army territory.

Within the combat area, the unit commanders are responsible for the exercise of the provost service in their territories. The assignment of provost service of the army within the combat area will be limited to exceptions. The commander of the army rear area directs the provost service** in the army rear area by order of the AOK (O. Qu.). He assigns the provost service units subordinate to him. In our own country, executive police organs can also be employed for duties of the provost service. In the same way military police personnel, units of the provost service in particular can be employed for general police duties. Military police personnel, military administrative and local administrative headquarters have to cooperate closely with the offices of the German police.

** See 25.

In enemy country, at the moment, when the tasks of the chief of the civilian administration are assumed by the commander of the army rear area***, also the entire provost service police activity is passed over to the units of the provost service which may have to be enforced by police forces brought up from the rear.

*** See 29.

37. The military police exercises the provost service according to detailed instructions given in Army Manual 275 (military police directive).

Soldiers and officials of all ranks are bound to obey the orders of the military police personnel and have to assist them at any time when exercising their duties as against the indigenous civilian population.

The military police has personnel assigned for general police duties, the same authority as the regular executive police officials. In enemy country, all executive police authorities are in the hands of the military police except for special tasks for which special forces are assigned (for example, secret field police).

One of the most important tasks of the military police, which has to be promoted by all troop leaders and command authorities, is their assignment in traffic regulation service. This comprises beside the general supervision of all traffic discipline and the enforcement of traffic regulations, above all, the regulation of traffic at difficult points where own forces are not insufficient or where large troop concentrations make traffic more difficult. A planned traffic regulation by military police is especially necessary in case of: (a) larger troop movements on advance or retreat roads; in communities, at crossroads in one-way streets, detours, bridges, tunnels, and narrows; at points with traffic going both ways; and at points where columns are passing each other; (b) movements of large motorized units; (c) movements of rear services on supply roads and at major supply installations (terminal railway stations, dumps, parking areas, shipping, and transfer points).

The commander of the rear area can assign military police officers as road commanders for certain road sections in the army territory.

Further duties of the military police—when necessary in cooperation with the competent offices—are among others: supervision of the prescribed and disciplinary behavior of soldiers through patrols on roads and in communities; arrest of soldiers who are absent from their units without official leave; checking of leave trains; collection of stragglers (see 40); installation of information points; taking care of the burial of soldiers killed in action; prevention of unauthorized confiscations; safeguarding of usable supplies; registration of the population capable to work for labor services; installation of prisoners of war collection points in the combat area (see 41); first aid in case of accidents, and establishing the facts; taking care of orders and requests of competent authorities in military and regular police matters.

The leaders of military police units, who are assigned but not subordinate to a sphere of command of a military administrative or local administrative headquarters by the commander of the army rear area, have to contact those headquarters and are bound

to report to them all important events and observations in their sphere of command.

38. Guard battalions protect the military installations which serve the army supply as well as loaded railway cars and ships stationed in the army territory against acts of sabotage, air raids, attacks of enemy reconnaissance units and paratroopers, and against attacks of rebellious population. They are not to be employed for assignment at the front line. Activity of the guard units when evacuating prisoners of war (see 41) guard battalions, or elements of them can be assigned independently or subordinated to military administrative or local administrative headquarters, as well as to railway station (or port) officers.

39. Military administrative and local administrative headquarters are assigned in the army rear area according to need as follows:

Military administrative headquarters for certain districts. Local administrative headquarters I for larger and medium cities. Local administrative headquarters II for smaller cities and villages.

One or more local administrative headquarters can be subordinated to a military administrative headquarters.

Those headquarters have within their spheres of command, the duties and authorities of a garrison senior officer in the sense of the garrison directive (Army Manual 131). They are responsible for the provost service except in cases where the commander of the army rear area issues special regulations, for example for traffic regulations when marching through of large units. They take care of the billeting, feeding of troops and prisoner of war transports, and assist all units and rear services in the discharge of their duties. They dispose of military police for the field service according to the table of organization. Moreover, military police and guard units can be subordinated to them by the commander of the army rear area. In enemy country the tasks and authorities of the headquarters within their spheres of command also extend to the civilian administration. The district, county, and/or community administrations are subordinate to them.*

* See 30.

40. Collecting points for dispersed people and information points are installed according to need by the headquarters, guard units, or military police units at the staff headquarters of command authorities in the neighborhood of important railway stations or larger traffic points.

They have the purpose to quarter and feed temporarily dispersed soldiers and stragglers of advanced troop units, as well as individual soldiers coming back from furlough, whole leave trains,

and replacement transports if they have no definite terminal, and to send them on. For this purpose, the information points are kept informed about the assignment of troops by the AOK which nevertheless guards the secrecy.

41. Prisoner of war collecting points are installed by order of the command authorities within the combat area by the military police units of the corps and divisions, in the army rear area by guard battalions. For guarding the prisoners in the PW collecting points within the combat area and during the evacuation to installations of the army, troop escorts from the fighting troops have to be detached if necessary.

V. War Administration of Occupied Enemy Territory

42. "War Administrations" under special military commanders can be established for the administration of occupied enemy country between the area of operations of the army and the Reich border if the area of operations of the army does not border any more on German Reich Territory. The Commander in Chief of the Armed Forces will give orders to that effect.

PARTIAL TRANSLATION OF DOCUMENT NOKW-1878 PROSECUTION EXHIBIT 42

EXTRACTS FROM THE HANDBOOK FOR GERMAN GENERAL STAFF SERVICE IN WARTIME

H. Dv. g 92

Secret

HANDBOOK FOR THE GENERAL STAFF SERVICE IN WARTIME

Part I

concluded 1 August 1939

Berlin 1939

Printed by the Reich Printing Office

This is a secret matter according to Article 88 of the Reich Penal Code (Edition of 24 April 1934). Misuse will be punished according to the regulations of this law, unless other penal regulations apply.

Table of Contents

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No. 2500/39 g IIc

Berlin, 1 August 1939

I approve the use of this Handbook for the General Staff Service in Wartime.

[Signed] HALDER

GENERAL DEFINITIONS

Part I of this handbook is "secret", Part II, "top secret (military)".

The handbook is primarily intended for the chiefs and their general staff officers. It shall serve as a reference manual for all those details that would tax the memory of the chiefs and their aides. Under this consideration everything was deemed superfluous which was evidently prerequisite knowledge of the chiefs and their aides, or which could be found in other directives to be taken along to the front, and could be referred to there.

In peace time the manual shall be also used for the training and instruction of general staff officers, of officers assigned to the general staff, as well as of students of the War Academy. It shall not be issued to foreign officers.

* * * * *

INTRODUCTION

1. "To accomplish much, to do it quietly, to be more than appearance suggests, must be the guiding maxim of every general staff officer." (Field Marshal Count Schlieffen. 1 April 1903.)

2. The commanding officer bears the responsibility for action. The general staff officer is the advisor and helper and the conscientious executor of the decisions and orders of his commanding officer. He has to preserve the limits which are drawn by this relationship to his commanding officer. His activity will in the long run be successful only if he enjoys the full confidence of his chief.

3. A great deal will be required of a general staff officer as far as his personality and ability are concerned. His position renders him liable to critical judgment by the public.

4. The general staff officer should possess strength of character and tact to the highest degree. He must be distinguished by clear, creative thought and logical actions, quiet contemplation, determined ability to act, untiring working capacity, self discipline, and physical freshness. Comradely relationship with the unit and a never-ceasing care for its requirements are part of his outstanding duties.

He must know the pulse beat of the unit, in order to be able to gauge its efficiency correctly in advising his commanding officer. The unit's esteem for him is an infallible yard stick for his influence.

An anticipatory evaluation of the uncertainty of war and the inflexible will to prescribe the actions of his adversary shall rule his thought and his counsel.

5. Only a continued study of all pertinent fields of knowledge, as well as keeping posted on the latest development of the means of war and their influence on the methods of conduct of war, having a command of the basic principles in the application of the various arms as well as directing and supplying the joined armed forces, and finally, familiarity with other tasks in the service of the general staff enable and justify the general staff officer to hold the excelled position in the staff of his chief.

Section I. Definition of the Theater of War

1. The theater of war is the territory in one's own possession wherein any sort of military action does or might take place.

Considering the present operating range of air forces the entire German Reich territory is considered a theater of war at the outset of war.

Parts of enemy territory occupied by our own troops are equally considered theater of war.

2. Operational theater of the Army is that part of the theater of war where the army carries on its operations. The rear limits of the army operational area is established by the Commander in Chief of the Armed Forces upon application of the Commander in Chief of the Army.

With the crossing of the Reich borders the army operational area extends forward. The army operational area is organized into army areas. An army area is divided into combat area and rear army area.

3. Naval fortified areas comprise coastal fortifications belonging to the navy and the installations to be protected by it; in addition the islands in the North Sea and the Baltic (with the exception of the island Poel) and the high sea routes. The naval fortified areas will be established in detail by the Commander in Chief of the Armed Forces upon application of the Commander in Chief of the Navy.

4. Armed forces administrative area is that occupied part of enemy territory situated outside the operational area of the army, where a war administration under a special military commander has been established.

5. Domestic theater of war is that part of the theater of war which does not belong to the operational area of the army, the fortification area of the navy or the armed forces administrative area.

Section II. Command Authority in the Operational Area of the Army

* * * * *

A. AUTHORITY OF THE COMMANDER IN CHIEF OF THE ARMY (O.B.D.H.)

1. In the operational area of the Army, the following are placed under the command of the Commander in Chief of the Army, and his subordinate offices (AOK's, corps) :

a. The offices and troops of other branches of the armed forces (for particulars concerning the air force, see *C*) tactically subordinated to the Commander in Chief of the Army.

b. Other offices and units of the navy and air force stationed in the operational area (Military Economy Inspectorates, replacement units, schools) in regard to billeting (except the permanent installations of the air force), transportation, and traffic management (cf. No. 13), the evacuation of the combat area, counter-intelligence, medical services (except the troops' own medical service), pay and rations, supply of motor fuel, and field postal services.

The uniform direction of counterintelligence lies with the Supreme Command of the Armed Forces—OKW (sec. Foreign Countries/Counterintelligence) according to regulations (see sec. VII).

2. According to the Reich defense law the exercise of executive power (see sec. XII B) in the zone of operations is transferred without further orders to the Commander in Chief of the Army and the commanders in chief of the armies, with the declaration of a state of defense or state of war.

Should they be charged with the exercise of executive power without prior proclamation of a state of defense or of war, this will be so ordered by the Fuehrer and Supreme Commander of the Armed Forces.

In exercising the executive power, the Commander in Chief of the Army or the commanders in chief of the armies have the authority to issue legal decrees for the army zone of operations, to install special courts, and to give instructions to the authorities and offices, competent for the zone of operations, with the exception of the Supreme Reich authorities and offices, the supreme

Prussian State authorities, and the Reichsleitung of the NSDAP [Party Directorate].

The right to issue directives takes precedence over directives of other superior offices.

3. The Commander in Chief of the Army will have assigned to him a "civilian plenipotentiary with the OKH"; the AOK's a "Chief of Civilian Administration" (Ch. Ziv. Verw.).

Their duties are stated in Army Manual 90 (for further particulars refer to sec. III, chart 1).

* * * * *

Section III. Duty With the Command Authorities in Wartime, Also When Employed at the Frontier During Times of Tension*

(Cf. charts 1 to 4 on page 41 ff.)

A. BASIC MATTERS

1. The senior commander alone bears the responsibility in his sphere of command.

* Command authorities not mentioned below regulate their business routine accordingly.

2. The officers and civilian officials of the staff are his aides. The instructions following below outline their line of duty. Only the major outlines are given. They form the basis for the detailed instructions to be worked out by the command authorities to be added to the preparations for mobilization.

B. TASKS AND ACTIVITY OF OFFICERS AND CIVILIAN OFFICIALS

AA. ARMY GROUP HEADQUARTERS, ARMY HEADQUARTERS, CORPS HEADQUARTERS

I. The Chief of Staff [Chef des Generalstabes]

3. At the head of the staff stands the Chief of Staff. He is the first adviser of the Commander in Chief [oberer Fuehrer—Commanding General] in all fields of activities. A close relationship of confidence between these two is indispensable as an enduring basis for the constructive work of the command authority.

4. If not immediate issuing of commands is called for, the higher commander [Commanding General] has to listen to the Chief of Staff before operational and tactical decisions are made. The chief of staff has the right and the duty of presenting his point of view and of making suggestions.

Decision and responsibility lie with the commander in chief exclusively. The chief of staff has to commit himself fully for the

execution of the will of his commander in chief, even if the latter's points of view and decisions are at variance with his own.

Simultaneous absence of the commander in chief and the chief of staff from the command post is to be avoided. If the situation demands a quick decision and the commander in chief is absent and not to be reached at once, the chief of staff is required to decide and to command. Such commands are to be indicated expressly as emanating from the command authority and not from the person of the chief of staff. The chief of staff has to inform the commander in chief of all official matters which are of significance to him. The higher commander, on his part, should inform his chief [of staff] concerning all directives issued by him directly.

5. The chief of staff is the superior of all members of the staff unless something else is established in individual cases by the official directives. Over all soldiers, with the exception of those senior to him, the chief of staff of an army group and an army has the disciplinary jurisdiction of a division commander; the chief of staff of an army corps has that of a regimental commander.

6. The chief of staff regulates the business routine of the entire staff unless the standard order of procedure provides for individual persons acting in special spheres.

7. Simplicity and strict discipline are needed for the leadership of the staff, as well as a distinct demarcation of the spheres of work, and also close cooperation. A staff works best when the chief of staff stimulates and maintains among his subordinates an eagerness for work, a sense of responsibility, foresight, and self-reliance. He must train the staff so that everyone regards the care of the troops as his foremost duty. Constant contact with the troops, tactful conduct while visiting the troops, as well as plain living in the field, adhered to by the staff of the higher command authority, exert a great influence on the morale of the troops.

8. Staff conferences—for the entire staff as well as within the sections—serve as a means of quick information and guarantee the uniformity of understanding and of procedure and save much unnecessary correspondence.

9. Organization of the staffs, see charts 1 to 3*, spheres of work of the sections, etc. see chart 4. The latter serves as a guide. Changes are ordered by the chief of staff who also decides concerning the acceptance and treatment of incoming material. Important matters are reported to the commander in chief at once.

* See p. 41 ff.

10. The chief of staff directs the verbal reports to the higher commander. He may take part in them.

All important matters must be reported to the higher commander at the right time, concisely, mentioning the essential facts, so as to facilitate decision, and without a one-sided slant toward a preconceived opinion.

11. The chief of staff examines all drafts before they are submitted to the higher commander. He is authorized to sign documents which neither have basic significance nor contain evaluations concerning the recipient. The signature reads as follows:

“For the Army Group Command (Army Command/Corps Command),

The Chief of Staff,

.....”

12. Several experts, as a rule, participate in the drafting of orders. The following compile the drafts: for the operational order and implementation thereof, the Ia;

for the special directives concerning supply and rear services, the Oberquartiermeister with an AOK; the Quartiermeister with corps headquarters;

for the order of the day and staff order the IIa.

The same authorities are responsible for the issuance of orders.

13. Orders will be signed as follows: the higher commander signs the operational order, after personal report by the chief of staff. The chief of staff signs the implementations of the operational order, after having reported on the important details to the higher commander. The Oberquartiermeister with an AOK, the chief of staff with a corps headquarters, signs the special directives concerning supply, after important questions have been submitted to the higher commander. The Oberquartiermeister with an AOK, or the Quartiermeister with a corps headquarters signs the special directives for the rear services. Either the higher commander or the chief of staff, according to the contents, signs the order of the day. The chief of staff or, upon his orders, the IIa signs the staff order.

14. The chief of staff determines how far the Ia keeps up liaison for him with superior, adjoining, and subordinate offices. Liaison officers may be sent out only by the higher commander. Permanent liaison officers will be assigned to subordinate offices only in exceptional cases.

15. The chief of staff makes recommendations concerning all officers of his subordinate staff. He makes recommendations con-

cerning general staff officers of subordinate offices on a separate sheet of paper.

16. The chief of staff bears the responsibility for the training of all general staff officers within his sphere of command.

17. The chief of staff has no right of inspection. He makes visits of troops, positions, etc., by order of the higher commander.

18. The chief of staff represents the higher commander during short absences. For longer absences, higher headquarters designates the representative for the higher commander.

19. Ia deputizes for the chief of staff. Their simultaneous absence from the command post is to be avoided.

II. Operations Section

a. The First General Staff Officer (Ia)

20. Ia is the chief of the operations section and is concerned with matters pertaining to troop leadership.

He reports to the chief of staff and generally attends the latter's oral report with the higher commander insofar as these concern affairs of leadership of the troops. He keeps the staff informed on the situation (staff conferences, see No. 8). Ic deputizes for Ia.

21. Ia may be called upon to make quick decisions of the command authority in case the higher commander and the chief of staff cannot be reached. Ia is then obligated to act on his own responsibility in conformity with the authority given to the chief of staff (No. 4). The steps taken are to be reported to the higher commander and the chief of staff upon their return.

22. Other officers except those mentioned under No. 21 (or their permanent deputies) are not empowered to answer inquiries concerning combat action without specific authorization.

23. The war diary of the command authority is kept by one of the adjutants pursuant to directives of the Ia. "Directions for making entries in war diaries" are fixed to each war diary.

b. The 3d General Staff Officer (Ic)

24. Ic is the aide of Ia in determining the enemy situation. Enemy information having come in via the front and secret intelligence service* form, in addition to their own mission, the most important basis for an evaluation of the situation and the decision. The enemy situation is to be worked out according to the principles of the troop leadership.

* See numbers 38-46.

25. Close cooperation with the Ia is of importance. Ic must attempt on his own part to secure early and completely all details of the situation and the intentions of the command. Enemy information received by the higher commander, the chief of staff, or the Ia by telephone, on trips to the front etc., must be immediately reported to the Ic; he also is to be advised of important considerations and discussions.

26. Ic is responsible for the cooperation of all offices and units employed in securing information.

Ic provides for a coordinated air and ground reconnaissance pursuant to the operational order and the intentions of the command; he also coordinates newly employed reconnaissance operations with the reconnaissance results obtained previously.

Close collaboration of the Ic with the air force command*, signal communication, and intelligence is essential for this purpose. Ic also must keep in close contact with the troops; his work is facilitated by personal acquaintance with the commanders and executive officers. Discussions with superior, subordinate, or adjoining command authorities, inquiries at dressing stations at collecting points for prisoners and booty, will supplement and correct the picture gained.

* At Corps Headquarters and Divisional Headquarters with the Commander of the antiaircraft battalion and the squadron commander of the reconnaissance squadron (H) and/or his aviation liaison officer.

27. In critical times the majority of enemy information comes in via official channels of Counterintelligence I (OKW), since this information, as in peace time, generally emanates from secret intelligence service sources. If, in the course of the crisis, it comes to an occupation of the border or a deployment of troops, which by tactical observation and reconnaissance produce additional enemy intelligence it is passed on via the Ic channel.

In war times there is only the official channel of the Ic for the transmission of information gained by tactical means. The secret intelligence service continues to operate independently thereof with his permanent network and forwards its news via his own official channel to OKW/counterintelligence section I.

28. Reconnaissance has different aims. While the division essentially only requires information concerning the immediate opponent the corps and the army must have information on the composition and the movements of the masses of enemy forces.

29. A picture, as clear as possible, must be gained from the many single messages, often contradicting each other, in a short time. All results are to be checked as to their reliability; facts and conjectures must be separated.

30. Ic makes the entries on the enemy situation map where the results of reconnaissance must be entered at regular intervals. The latter are to be chosen in such a manner as to provide the latest data for impending new decisions.

The enemy situation map must be continuously adjusted. Facts and conjectures must be shown in different colors, if possible; explanations must be added if necessary so that anyone can understand it.

31. Ic makes a verbal report to Ia; if there is important information he reports to the chief of staff in the presence of Ia.

32. Ic suggests to the Ia a definite, "enemy paragraph," and one on, "reconnaissance". If it is necessary to give further details about the enemy, the "enemy paragraph" can be supplemented by a special sheet concerning the enemy situation.

33. Ic works with a corps or divisional headquarters in the above sense.

*c. The Counterintelligence Officer (AO) with Army Group
Headquarters and AOK
(Subordinate to Ic)*

34. AO is responsible for the direction of the counterintelligence service pursuant to directives of Ic. He transmits all enemy intelligence as fast as possible to Ic, but as for the rest, he keeps away from the latter all matters which he can handle and decide himself. At command authorities [headquarters] without an AO, the counterintelligence affairs are handled by Ic.

35. The tasks of AO derive from the counterintelligence tasks in peace time. These are: the countering of espionage, of high treason, of sabotage, and of enemy propaganda, all matters of the press including censorship, proclamations, political questions, etc. AO looks after the interests of the correspondents and, if necessary, after the interests of foreign officers. It is advisable according to the local situation to contact the Party, the local propaganda office, the radio, the custom (and/or VGAD) and the border guard. AO, by order of the Ic, issues orders to the Gestapo possibly active in the area of operations.

36. For censoring the entire propaganda material received by the propaganda company, the army, and the AO directly, 3 censorship officers are subordinated to the AO (2 from the army, 1 from the air force). They are instructed to collaborate closely with the propaganda company commander (I Pr).

AO is to inform the censorship officers regularly of everything which they should know, in particular of:

- a. The combat situation.
- b. Matters which shall not become known to the public.
- c. Matters which are to be revealed to the public only in veiled language.
- d. Matters that are or must be made public.

If in exceptional cases this instruction is not supplied, the censorship officers are obliged to secure this information on their own.

37. In counterintelligence affairs, AO is authorized to communicate via counterintelligence channels with OKW [Foreign Countries] Counterintelligence and with Counterintelligence Sections I, II, and III directly.

The same applies to communications with the liaison group OKW [Foreign Countries]. Counterintelligence with the OKH (OQu IV).

Front—and Secret Intelligence Service

38. It assembles a picture of the enemy by means of the front and secret intelligence service.

The main sources from which information is procured are:

- a. A general knowledge of conditions on the enemy side.
- b. Reconnaissance by air and on land.
- c. Special means.

39. Ad *a.*—General knowledge of conditions on the enemy side pertain to (*a*) the country and the people, organization of the state in peace and war; (*b*) the armed forces, their armament, equipment, organization, and leadership; (*c*) correct evaluation of all other forces supporting the enemy armed forces.

These matters are, for the most part, already known in peacetime. They are worked out by the OKH, General Staff of the Army, OQu IV, and are recorded in the booklets of orientation which are continuously supplemented.

40. All command authorities [headquarters] are supplied with literature issued every spring, concerning war timetables of organization of foreign armed forces. In addition the command authorities receive—as part IV of mobilization calendars—folders with data concerning those foreign armies against which they will presumably be committed.

41. Ad *b.*—Reconnaissance by air and on the ground. Basic rules for reconnaissance see Troop Leadership.

42. Ad *c.*—Special means include: Reconnaissance by means of signal communication, see section VI B.

Interrogation of prisoners, of deserters from the enemy, natives, exploitation of captured documents, foreign press, secret intelligence service.

43. Ic with the AOK is the main office for the interrogation of prisoners, deserters from the enemy, natives, and for the evaluation of captured documents (orders, maps, pay books, note books, letters, post cards, newspapers, photos, films and reels of films, files, telegram strips, codekeys, call numbers, codes, signalbooks, list of code names, etc.) found on soldiers killed in action, prisoners, deserters from the enemy, carrier pigeons, messenger dogs, in enemy combat posts and positions, at public offices, editors' offices, post and telegraph offices, broadcasting stations, railway stations, in letter boxes, captured vehicles, airplanes, tanks, balloons, etc.

44. Troop units and divisional commands (Ic) are to limit themselves to a brief interrogation of the prisoners concerning the immediate combat situation and are to inspect captured documents only for combat purposes (No. 28).

The methodical interrogation and the first evaluation of all papers, is carried out by the AOK (Ic) by interpreters, as a rule, at the prisoner collecting points of the corps. A thorough evaluation of all documents is then made at the AOK.

45. The entire foreign press is screened by the Reich Ministry of Public Enlightenment and Propaganda. All news of importance for war operation are collected and processed by the OKW, Office Group Foreign Information and Counterintelligence (A Ausel/Abw).

46. The operation of the secret intelligence service (agent service at the front) in the area of the AOK is the task of the AO. Close cooperation with the competent local counterintelligence office is required. The secret intelligence service via neutral countries is carried on exclusively by the OKW, counterintelligence section I.

47. The special branch of counterintelligence has the following tasks:

a. To observe the minorities and movements inimical to the state in foreign countries and to prepare their utilization in case of war.

b. To prepare and carry out the entire war sabotage pursuant to instructions by the branches of the armed forces.

c. To disrupt the armed forces of the enemy states concerned.

A specialist of this special service branch is assigned to the Group Foreign Countries Counterintelligence with the OKH. Cor-

respondence is handled by the AO at army group headquarters and at the AOK.

d. The Propaganda Officer (I Pr) with the Army Headquarters [AOK]

48. The CO of the army propaganda company is at the same time the expert (I Pr) for all propaganda questions with the staff of the AOK. I Pr is subordinated to the chief of staff and his deputy the Ia cooperating closely with the Ia, the Ic, and the AO.

49. I Pr must be informed about—the military and political situation generally, the situation at the army in particular (information about orders issued by Ia and Ic); all details relating to propaganda (participating in interrogations, reading of enemy leaflets, etc.).

50. I Pr reports to the chief of staff and to the Ia concerning the propaganda situation as well as the results accomplished by his company. He makes suggestions as to the assignment of his company and makes a draft of the paragraphs of the special orders relating to its assignment and other problems of propaganda. He informs Ic and AO about the contents of his reports. His requests for the support of his propaganda activities by the troops (dropping of leaflets by airplanes, etc.) are to be fulfilled.

e. The Chief Engineer Officer

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III. (Ober-) Quartiermeister Section

a. The 2d General Staff Officer (Ib) with army group headquarters

65. Army group headquarters as a purely operational command authority is not incorporated between the OKH and the armies within the scope of army supply. It will only interfere by way of directives when pressing circumstances demand it. For more details see Army Manual 90 (Supply of the Field Army) Part I, section II.

Ib with Army Group Headquarters is kept currently informed as to the supply situation of its subordinate armies and makes a report concerning it to the chief of staff, and on his orders, to the commander in chief.

b. The Oberquartiermeister (O.Qu.) with AOK, and the Quartiermeister (Qu.) with corps headquarters

66. OQu. is subordinate to the chief of staff of the army. According to the latter's directive he directs the supply of the army within the scope of orders issued by the OKH (Gen.Qu.). He

makes a daily report on the supply situation in all sectors to the Gen.Qu.

Qu. is subordinate to the chief of staff of the army corps and according to the latter's directives he deals with supply in the army corps area.

67. OQu. (Qu.) reports to the commander in chief (commanding general) as well as to the chief of staff concerning the supply situation. Difficulties which occur or are expected to arise are to be brought up for discussion at the appropriate time insofar as they can influence the operation.

In all maintenance matters OQu. contacts Gen.Qu. (Qu. contacts OQu. and Ib of the division), directly.

68. By order of the commander in chief, OQu. divides the army area into the combat area and the army rear area. He is in charge of all matters of executive power in the army rear area (see section XII B) and issues the necessary directives to the chief of the civilian administration with AOK by order of the commander in chief. He directs the evacuation measures ordered by the OKH (see section IX).

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IV. Executive Officer Section

a. The 1st Executive Officer (IIa)

70. IIa is head of the Executive Section. He supervises the business routine in the offices in view of all regulations issued for it including in peace time also.

IIa reports to the chief of staff and the higher commander. At army group headquarters and at AOK, IIb deputizes for him; at corps headquarters his deputy is the headquarters commandant.

IIa has charge of the trucks and the motorized signal detachment. The affairs of the operations section are to be given priority.

IIb deals with the affairs of the noncommissioned officers and the enlisted men.

b. The Commanding Officer at Headquarters (H.Qu.)

71. On H.Qu. devolves the task of billets and rations for the command authorities [headquarters] and for the staffs and for units to be supplied by the latter, likewise the security of the quarters of the command authorities.

H.Qu. is in command of the inside work of the secondary staff. He has a company commander's authority to punish the noncommissioned officers and enlisted men on the staff. He reports to IIa, and in special cases on the latter's orders to the chief of staff. His deputy is appointed by the command authority.

TABLE OF ORGANIZATION OF THE STAFF OF ARMY HEADQUARTERS [AOK]

(Applies for Army Group Headquarters Accordingly)

ARMY HEADQUARTERS [AOK]

COMMANDER IN CHIEF CHIEF OF STAFF

REFERRED TO CO-OPERATION WITH OPERATIONS SECTION				
<p>1st GEN. STAFF OFFICER 4th Gen. Staff Off. (1d) 1st Adjutant (01) 4th Adjutant (04) 1 assistant (civilian official) 1 registrar (civilian official)</p>	<p>3rd GEN. STAFF OFFICER 3rd Adjutant (03) 6th Adjutant (06) 2 assistants (interpreters subordinated)</p> <p style="text-align: center;">COUNTER INTELLIGENCE OFFICER (AO)</p> <p>1 counter intelligence officer (AO) 7th Adjutant (07) 3 censorship officers (2 of the Army, 1 of the Luftwaffe)</p>	<p style="text-align: center;">ARMY ENGINEER OFFICER</p> <p>Technical staff officer in charge of affairs of the engineers Technical staff officer in charge of affairs of the construction troops</p>	<p style="text-align: center;">PLENIPOTENTIARY TRANSPORTATION OFFICER</p> <p>1 expert for troop transports 1 expert for supply transports 1 assistant for supply transports</p>	<p style="text-align: center;">COMMANDER OF THE AIR FORCE</p> <p>Kolult la with the authority of a chief of staff la op. 1 Gen. Staff off. 2 officers lc 1 officer 1 photograph 2 officers I Z. L.³ 1 officer I W 2 meteorologists (civilian official) 2 civilian officials I N. V. W.² 1 officer 1 technical civilian official lb 1 officer (pilot) ll 1 officer IVa 1 civilian official IVb 1 medical official</p> <p style="text-align: right;">Army Weather Station</p>
<p>OPERATIONS SECTION² 1st Gen. Staff Officer</p>	<p style="text-align: center;">ARMY SIGNAL OFFICER</p> <p>Nachr. 1 executive officer 1 expert (radio) 1 expert (telephone) 2 officers for code service 1 consultant (post office official) 1 assistant (civilian official)</p>			

NOTES

¹ Directly subordinate to the Commander in Chief: Chief of Civilian Administration
CHIEF OF CIVILIAN ADMINISTRATION
11 higher civil service officials
2 police officers
1 official

² The C. O. of the Propaganda Company is at the same time expert for propaganda (I P)
³ Civilian air raid protection
⁴ Signal communications

ATTACHED SPECIALISTS			
<p style="text-align: center;">2d GENERAL STAFF OFFICER</p> <p>Qu. 1 2d Adjutant (02) 1 expert for ammunition and antirgas equipment 1 expert for infantry and artillery equipment 1 expert for engineer equipment (at the same time for road construction) 1 expert for communications equipment 1 expert for motor transport service 1 expert for general army equipment</p> <p style="text-align: center;">ARMY SUPPLY OFFICER</p> <p>Supply 1 officer for special missions 1 executive officer 1 civilian official</p> <p style="text-align: right;">Supply Services of the Army</p>	<p style="text-align: center;">5th GENERAL STAFF OFFICER</p> <p>Qu. 2 5th Adjutant (05) 1 liaison official of the military economy staff 1 liaison official of the chief of civilian administration</p> <p style="text-align: right;">Police Services (Ordnungsdienste) Army Road Construction Services</p>	<p style="text-align: center;">IVa (SIMULTANEOUSLY ARMY ADMINISTRATIVE OFFICER)</p> <p>14 civilian officials</p> <p style="text-align: right;">Administrative Service of the Army</p>	<p style="text-align: center;">IVb (SIMULTANEOUSLY ARMY SURGEON)</p> <p>1 executive officer 3 medical officers 1 pharmacist</p> <p style="text-align: right;">Medical Services of the Army</p>
<p style="text-align: center;">O. Qu. OBERQUARTIERMEISTER SECTION (Gen. Staff Officer) (See Army Manual 90, Part I)</p>	<p style="text-align: center;">IVc (SIMULTANEOUSLY ARMY VETERINARY OFFICER)</p> <p>1 executive officer 3 veterinary officers</p> <p style="text-align: right;">Veterinary Services of the Army</p>	<p style="text-align: center;">F. P. (SIMULTANEOUSLY ARMY FIELD POSTMASTER)</p> <p>3 civilian officials (army post office)</p> <p style="text-align: right;">Field Post Services of the Army</p>	<p style="text-align: center;">III (SIMULTANEOUSLY ARMY LEGAL OFFICIAL)</p> <p>1 judicial official 1 registrar of the military court</p> <p style="text-align: right;">Army Legal Official</p>

<p style="text-align: center;">EXECUTIVE OFFICE 1st Executive Officer</p>	<p style="text-align: center;">2d EXECUTIVE OFFICER</p> <p>1lb</p>	<p style="text-align: center;">COMMANDING OFFICER AT HEADQUARTERS</p> <p>H. Qu. 1 paymaster 1 registrar Motorcycle messenger detachment Motorized section</p>	<p style="text-align: center;">ARMY LEGAL OFFICIAL</p>
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c. The Army—(Corps)—Legal Official (III)

72. III is the consultant to his command authority [headquarters] in all legal matters. He is directly subordinate to the higher commander in the latter's capacity as judicial authority and he reports to him.

It is not incumbent on the chief of staff to influence the reports of III to the judicial authority. Nevertheless, the legal official has to inform the chief of staff immediately of such events coming to his knowledge which affect the morale of the troops or concern persons in special positions (officers, higher officials). The chief of staff is also to be informed of decrees on punishment, warrants of arrest, complaints filed, newly set-up field courts martial, sentences pronounced in the field, etc.

Deputation is to be arranged specially.

[Chart of AOK (the fold-in) appears here in original.]

BB. DIVISIONAL HEADQUARTERS [DIV. KDO.]

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(To Section III) Table 4

Assignments of Duties of Staff, Army Headquarters [AOK]*

*I. Operational Section***

<i>Ia</i>	<i>Ic</i>
I. Conduct of Field Operations.	I. Procurement and exploitation of intelligence.
II. Organization and Training.	II. Enemy situation map.
III. Directives to the Plenipotentiary Transportation Officer, for transports.	III. Order of Battle, organization, training, equipment, etc. of the enemy. Subordinate to the counter intelligence officer.
IV. Directives to Nachr. for Signal Communications Service.	IV. Counter Intelligence Service.
V. Directives to I Pr. for commitment of the propaganda company.	V. Secret Intelligence Service, the press, proclamations, communications, political questions, reporters and foreign officers.
VI. Directing the publication of orders, situation map, war diary and war files.	

* With the Headquarters of the Army Group, Corps Headquarters, Border Patrol Section Headquarters and Divisional Headquarters accordingly. The individual duties are implicit in the text as well as in Tables 1-3.

** Duty Roster for the Oberquartiermeister Section and Quartiermeister Section see Army Manual 90 (Part I).

II. Executive Office

Ila

- I. Affairs pertaining to officers.
- II. Authority over motor vehicles and Motorcycle Messenger Detachment.
- III. Business Methods in the office.
- IV. Daily Orders and Staff Orders.

H.Qu.

- I. Billeting, care and security of the command authorities.
- II. Inside duty of the staff personnel (noncommissioned officers and men).
- III. Staff vehicles.
- IV. Local commandant if the command authority is situated separately.
- V. Transportation leader with transports of the command authorities.

I Ib

- I. Affairs pertaining to non-commissioned officers and men.

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Section IV. Fortifications

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Section V. Transportation

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Section VI. Communication Service

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Section VII. Counterintelligence Service

(Combating of high treason, espionage, sabotage, seditious propaganda)

1. The enemy counterintelligence service is combating the whole strength of the German people. It is not satisfied with the procuring of intelligence (espionage) but is proceeding to act against the material sources of strength (sabotage) and against Germany's morale (propaganda, undermining of morale).

2. The combating of high treason, of enemy espionage, sabotage, propaganda, and undermining of morale is the mission of our own counterintelligence service. As executive agency the Secret State Police [Gestapo] is available in the home theater of war (see section I), and the secret field police in the operational area and in the occupied enemy territory.

To coordinate direction of the counterintelligence service in the theater of war there is a liaison group of the Office Group Foreign Countries/Counterintelligence of the OKW at the OKH. It is assigned to OQu. IV.

3. In the area of command of the army groups and armies the counterintelligence officer (AO) subordinated to the Ic works in accordance with the directives of OKW, Counterintelligence III (see section III).

As an executive body the secret military police at AOK is at the disposal of the AO; its chief is the AO's adviser. Army group headquarters has no secret field police at its disposal.

At corps headquarters and divisional headquarters counterintelligence is the responsibility of the Ic (Section III).

4. It is also one of the duties of the officer charged with counterintelligence to propose to the command authority [headquarters] the necessary measures in the area of combat troops, to suggest police measures in the rear of the combat troops, in association with the general staff officers (OQu., Qu., Ib) competent for the rear services, and to make proposals for camouflaging and keeping secret military communications, and also for other measures aiming at weakening the enemy intelligence service.

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Section VIII. The Propaganda War

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Section IX. Evacuating the Combat Area

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Section X. Military Economy and War Economy

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Section XI. Questions of International Law and Agreements, Negotiations with the Enemy, Prisoners of War

A. CUSTOMS OF WAR AND INTERNATIONAL AGREEMENTS

1. Chivalry in combat and respect for agreements concluded have been since olden times tacitly acknowledged as customs of war by soldiers of civilized nations. Likewise it is also an acknowledged custom of war to retaliate without mercy in the case of offenses against these principles. Differences in the interpretation of customs of war based on the national character and special circumstances must be taken into consideration.

2. The international law of warfare includes the obligations voluntarily undertaken by the nations to observe certain rules which aim at, "mitigating the suffering produced by war, as far as military interests permit this". Rules which are tacitly acknowledged constitute customary law, agreements concluded in writing constitute contractual law. Only the nations are legally bound by these laws. But the nations have undertaken the obligation of instructing their armies accordingly.

3. The rules of international law are only based on mutual acknowledgment. There is no power above and beyond the states which could enforce the observance of such rules. The nonobservance of a rule of international law in the course of a war may nevertheless—by reason of its effect on public opinion—lead to results which are politically disadvantageous.

4. If in the course of a war one party disregards a rule of international law, the opponent is entitled to use means of self-defense. These means can consist in lodging a complaint via a neutral state, or in introducing the same state of affairs on their side, or finally, in taking measures of retaliation (reprisals). A mutual intensification of measures of retaliation will necessarily lead to a negation of international law (of warfare) as a whole. Therefore, it is in accordance with the demands of foresight and perspicacity that the consequences of taking such measures should be carefully examined, and, if they prove necessary, that they should be previously announced.

5. The majority of agreements of the law of warfare which were concluded during the period before 1914, contain a provision according to which they are only valid if the belligerents are all partners to the agreement (general participation clause). On the other hand, the agreements mentioned under *6e* and *f* provide that they remain binding for all belligerents who are partners to the agreement, even if one belligerent is not a partner to the agreement.

6. The text of the agreements of the law of warfare which apply to war on land is contained in Army Manual 231, which in its edition for troop commanders includes all important agreements concerning the war on land, sea, and in the air.

The following must be considered in particular:

a. Ordinance of the Laws and Customs of Land Warfare dated 18 October 1907 (Hague Rules for War on Land), the principles of which were laid down at the conference of 1874 (Brussels), and 1899 (Hague).

b. Provision concerning the Prohibition of Bullets which extend or flatten easily within the human body, dated 29 July 1899 (bul-

lets with a hard casing which does not quite cover the core or in which incisions have been made, so-called dum-dum bullets).

c. Agreement concerning the Prohibition of Chemical Means of Warfare (Gas-War Agreement), dated 17 June 1925. Prohibited is the, "use of suffocating, poisonous, or similar gases, as well as of similar fluids, materials, or processes," in the course of a war; furthermore, bacteriological means of warfare.

d. Agreement concerning the Rights and Duties of Neutral Powers and persons in the case of a war on land, dated 18 October 1907.

e. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick of Armies in the Field, dated 27 July 1929 (Red Cross Convention), evolved from the Geneva Agreements of 1864, and 1906.

f. Agreement concerning the Treatment of Prisoners of War, dated 27 July 1929, which replaces Articles 4–20 of the convention mentioned under *a.*

7. The war on sea is governed by several written international agreements, apart from the international customary law. The efforts made towards inducing the states to acknowledge international rules of war in the air have had no results so far.

8. During the war 1914–1918, the enemy committed numerous offenses against the existing agreements on all fronts. In future, if such a case arises, all command offices [units] will immediately report the details to the Supreme Command of the Armed Forces through official channels.

B. TREATMENT OF SPIES, PARTISANS, AND HOSTAGES—MILITARY AUTHORITY OVER OCCUPIED TERRITORY

9. The treatment of spies has been regulated by international law in the second chapter of the Hague Rules for War on Land.

Chapter II—*Spies*

Article 29

A person can only be considered a spy when, acting clandestinely or on false pretences, he obtains or endeavours to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not wearing a disguise who have penetrated into the zone of operations of the hostile army, for the purpose of obtaining information, are not considered spies. Similarly, the following are not considered spies: Soldiers and civilians, carrying out their mission openly, intrusted with the delivery of despatches

intended either for their own army or for the enemy's army. To this class belong likewise persons sent in balloons for the purpose of carrying despatches and, generally, of maintaining communications between the different parts of an army or a territory.

Article 30

A spy taken in the act shall not be punished without previous trial.

Article 31

A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

The pertinent German decrees include the Decree concerning Special Penal Law in Wartime (Kriegssonderstrafverordnung) and concerning Military Penal Proceedings in Wartime (Kriegsstrafverfahrensordnung KStrVO), dated 17 August 1938 (both contained in Army Manual 3/13). According to this, the punishment to which the spy shall be sentenced is the death penalty (Article 2 of the first-mentioned decree). The "simplified war proceedings" which are governed by the KStrVO provide in Article 1 that the main trial must take place before three military judges, the defendant must be heard and must be allowed to make a final speech, the judgment must be laid down in writing and be accompanied by an opinion. The constitution of a field court martial (Art. 4) has been dealt with in Article 9 of the KStrVO. Instead of a judge advocate or an officer qualified for the office of judge, the president of the trial can, if necessary, be another officer (at least of the rank of captain), one of the assistant judges must be an officer, if possible a staff officer, the other assistant judge should be of the rank and in the same class of life as the defendant. The convening officer gives orders for the field court martial to convene, appoints an officer or official qualified for the office of judge, or court officer, or judge advocate as counsel for the prosecution, appoints the judges, fixes the main trial, and appoints a counsel for the defense (Arts. 49, 51). The judgment must be examined by him, only if he confirms it, it becomes valid and can be carried out (Art. 77); before the execution, however, the convicted person must be asked in writing by a judge advocate or officer whether he has any possible objections against the judgment, unless the defendant has already otherwise sufficiently voiced his opinion (Art. 78). Within the combat area, the afore-mentioned authority of the convening officer can, if it is not possible to contact him immediately, also be wielded by the nearest commander of a regiment or by a commander with an equal authority to take disciplinary action; this person, however, must immediately report the

measures taken to the convening officer (“emergency court provision,” Art. 13). The judgment can only be confirmed, however, on the basis of a written legal opinion of a judge advocate, or, if necessary, of an official or officer qualified for the office of judge (Art. 83).

The order confirming the judgment should read: “I confirm the judgment. The sentence is to be carried out”—the confirmation must be noted on the judgment and the defendant must be informed of it (Arts. 87 and 88). After the recording official has submitted a certified copy of the text of the judgment and of the order confirming it, the sentence is to be carried out by shooting, in the case of women it must on principle be by beheading (Arts. 101 and 103).

10. Although there are no international agreements which apply, the treatment of guerrillas has been regulated in exactly the same way as that of spies. The subject matter has been laid down in Article 3 of the decree concerning special penal law in wartime, and the death penalty had been decreed. The proceedings, including the execution of the sentence, must go through the same long channel prescribed by the rules for proceedings of the KStrVO, which have been described under No. 9, unless these persons meet their fate during the combat action proper.

11. No international agreement exists concerning the treatment of hostages. The taking of hostages has not been explicitly prohibited by international law, on the contrary its justification is based on international custom, in case the war situation requires it. It provides a safeguard against war crimes and may be used as a pressure forcing the enemy to adhere to agreements. The hostages are answerable for this with their lives. Their fate is decided by the nearest convening officer.

12. *Military Authority over Occupied Territory.*

International law has regulated this in the third section of the Hague Rules for War on Land, Articles 42–56. The most important are:

Article 50

No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

Article 51

No contribution shall be collected except under a written order, and on the responsibility of a commander in chief.

The collection of the said contribution shall only be effected as

far as possible in accordance with the rules of assessment and incidence of the taxes in force.

For every contribution a receipt shall be given to the contributors.

Article 53

An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the state, depots of arms, means of transport, stores and supplies, and generally, all movable property belonging to the state which may be used for military operations.

All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms, and generally, all kinds of ammunition of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made.

C. NEGOTIATIONS WITH THE ENEMY

(cf. Arts. 32-41 of the Hague Rules for War on Land)

* * * * *

D. PRISONERS OF WAR

Procedure of interrogation and evacuation to the rear

Command [Unit]	Route of Prisoners	Treatment of prisoners
Combat troops	Quick evacuation	<p>Segregation of officers, noncommissioned officers, enlisted men. Disarmament. [PW] retains steel helmet, gas mask, and shelter half.</p> <p>Papers to be taken from all officers; papers to be forwarded to division headquarters.</p> <p>Individuals to be interrogated only about present combat action of the unit concerned and without delaying their removal to the prisoner of war collecting point. Persons interrogated to be segregated from the others.</p> <p>Certificate of evacuation to be handed to the escorting detachment.</p>

D. PRISONERS OF WAR—Continued

Army headquarters [AOK]	Transit camp ("Dulag") Monitor service Guard Escorting detachment Evacuation to per- manent camp. Base camp ("Stalag") (Hospitals)	Interrogation to be supple- mented, also in hospitals. Supplying of food and shelter. Evaluation in detail of all pa- pers. Documents of nonmili- tary contents to be returned. Papers of special importance to be forwarded to Army High Command [OKH], General Staff of the Army (OQu.IV) Speedy evacuation to base camp (Stalag).
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22. The officers are to be immediately segregated from the other prisoners and to be kept segregated all the time.

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24. *Steel helmets, gas masks, watches, valuables, identification tags, personal identifications, insignia of rank, medals of distinction, objects for personal use, overcoats, shelter halves, blankets, cooking utensils, foodstuffs, and personal belongings* may not be taken away from the prisoners. *Money* which is found in possession of the prisoners of war may only be taken away from them at the, "Dulag", at the order of an officer, and after the accounts have been noted and the prisoners have been handed a receipt. If a prisoner is in possession of a conspicuously large amount of money, army headquarters will examine the case.

25. The concentration of prisoners who are only lightly guarded constitutes a danger. The prisoners of war are to be brought to the *prisoner collecting points*, beyond the range of enemy artillery fire, as soon as possible. They should not be exposed to danger unnecessarily.

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29. In the case of longer *marches*, transport columns of at most 2,000 prisoners are formed; the columns march on different roads or at least in 2-hour intervals.

When starting the march, the escorting detachment and the prisoners receive instructions.

Every transport leader receives marching instructions which he must keep secret—usually only up to the next destination. These instructions contained details about shelter and food supply as well as a numerical list of the prisoners. Prisoners may only be handed over for further evacuating against a certificate of receipt.

It is advisable that the marching columns [order of march] should be arranged as follows: Infantry troops of the escorting detachment to be placed at the front and the rear of the column, the remainder at both sides of the prisoners with cavalry or cyclists next to them. In enemy country reconnaissance troops must safeguard against any surprises. If there is an enemy attack the prisoners must lie down under guard with their faces to the ground.

The marching performance should be about 20 kilometers [12½ miles] daily, unless the supply of food and water requires longer marches (Art. 7 of the Geneva Convention). Vehicles should be provided in order to transport the field packs of the escorting detachment and, if necessary, prisoners who are not fit for marching and high ranking officers.

Forests and inhabited place facilitate escape and should be avoided as much as possible. It is advisable to quarter the prisoners in big buildings with water supply. Quartering details should be sent ahead in advance. Marching and arrival at the place of shelter during the hours of darkness should be avoided.

30. Arms and equipment of hitherto unknown species are to be forwarded immediately to army headquarters. Other captured weapons, army equipment, supplies, etc., are to be handed over to the equipment and booty collecting points.

Section XII. Jurisdiction of Penal Law in the Army— Executive Power

A. JURISDICTION OF PENAL LAW IN THE ARMY

1. Military penal proceedings in wartime are governed by Army Manual 3/13 (Kriegsstrafverfahrensordnung — Regulation for Penal Proceedings in Wartime).

2. Not only members of the armed forces but also its employees, prisoners of war, and all persons who commit punishable deeds in occupied foreign territory are subject to military jurisdiction.

3. In the case of espionage, partisan activities, offenses against orders issued by a commander in the theater of operations, insidious undermining of the fighting spirit, or the damaging of military equipment, the authority of the convening officer in the combat region can be wielded, if necessary, by the nearest commander of a regiment or a commander who has an equal authority to take disciplinary action.

4. There is no appeal against the judgments of the field courts martial. The judgments are valid and can be executed as soon as they are confirmed by the competent commander (usually the convening officer).

B. EXECUTIVE POWER

5. The exercising of executive power by military commanders is governed by Nos. 20–24 of Army Manual 90 (Supply of the Field Army).

6. If a zone of operation is determined, the Commander in Chief of the Army and the commanders in chief of the armies receive at the declaration of a state of defense or at the declaration of a state of war authority for exercising executive power in this territory, without further order (pars. 2 and 9 of the Reich Defense Law).

In other cases, the Fuehrer and Supreme Commander of the Armed Forces can transfer authority for exercising executive power to the Commander in Chief of the Army and the commanders in chief of the armies.*

* Commanders who are authorized to exercise the executive power in a part of a zone of operations of the army, have the same rights as the commanders in chief of the armies.

7. The executive power comprises the entire state power including the right of issuing laws without prejudice to the independence of jurisdiction. These persons invested with executive power can decree legal orders affecting the territory in which authority for exercising has been turned over to them or transferred to them, set up special courts, and issue instructions to the authorities and offices competent in the territory named, with the exception of the Supreme Reich Authorities, the Supreme Prussian Provincial Authorities, and the Reich Leadership of the NSDAP.

8. The Supreme Reich Authorities, Supreme Prussian Provincial Authorities, and the Reich Leadership of the NSDAP can decree orders for the territory into which executive power has been transferred, only by agreement with the person invested with executive power. Their right of issuing instructions to the authorities and offices subordinated to them remains intact. Nevertheless the right of issuing instructions by the person invested with executive power takes precedence.

9. Authority for exercising executive power is incumbent only on the person so invested. It can be transferred further only inasmuch as an authorization is ordered thereto actually or locally.

Accordingly persons invested with executive power are authorized to entrust subordinated offices with the execution of individual missions.

10. The laws, decrees, etc., which are valid at the transfer of the executive power retain their validity so long as the person invested with executive power encounters no contrary order.

11. The Commander in Chief of the Army regulates the exercising of executive power through the commanders in chief of the armies.

The revision of questions which occur in the exercising of the executive power does not fall into the realm of work of the army judges. The civilian commissioner with the High Command of the Army is assigned for that purpose to the commander in chief of the army, the chiefs of the civil administration, to the commanders in chief of the armies. Persons invested with executive power are authorized however, to call in the army judges assigned to them as counsellors, especially in the decreeing of legal orders of penal law content.

TRANSLATION OF DOCUMENT NOKW-057
PROSECUTION EXHIBIT 28

AFFIDAVIT OF FIELD MARSHAL KEITEL*, 27 SEPTEMBER 1946,
CONCERNING THE POSITION AND FUNCTIONS
OF DEFENDANT WARLIMONT

I, Field Marshal Wilhelm Keitel, swear, depose, and state:

I have known Major General Walter Warlimont since the time when he was a major on the General Staff, about the year 1935. In 1939, Warlimont became chief of the Department for National Defense ["L"], following the transfer of General Jodl to the front; he remained chief "L" from about 1941, later with the designation, "Deputy Chief of the Armed Forces Operations Staff" [Wehrmachtfuehrungsstab]. This did not involve any change in his official position or in his functions. Official communication with General Warlimont usually went by way of General Jodl. As the work of the Armed Forces Operations Staff increased considerably during the years 1941-42—due to the taking over of the command of the army in the East by Hitler as Commander in Chief, whereas in other theaters of war, Norway, France, Belgium, Italy, and the Balkans, he commanded together with the Armed Forces Operations Staff—from this time on, certain questions pertaining to the Quartiermeister service, questions of supply, and such matters which had to be handled in cooperation with the central OKW in Berlin or were referred to me, which had, however, nothing to do with operations, I discussed directly with Warlimont; mostly he also reported on such questions to me. I often discussed ques-

* Keitel, chief of the OKW and one of the defendants in the trial before the International Military Tribunal, was sentenced to death. At the time of the High Command Case, Keitel's death sentence had been put into execution. Defense counsel objected to the admission of this affidavit on the ground that the affiant Keitel was not available for cross-examination. The Tribunal admitted the affidavit in evidence, stating, however, that the affidavit would "be considered in the light of all the circumstances surrounding it" (*Tr.*, pp. 179-180).

tions of this kind directly with Warlimont, or with the Referent or department head, and in such cases also without referring them to General Jodl, unless I made the express demand that he should report on these questions to General Jodl also. In this respect; however, I took up much work myself, in order to relieve General Jodl, so that he could attend to his urgent operational tasks. Gradually this had become a practice, since otherwise the work would simply have grown beyond our control. Warlimont, as deputy chief of the Armed Forces Operations Staff, took part in the preparation of all operations. The usual procedure was that General Jodl in all such matters was present when Hitler set forth his basic thoughts and ideas; then he passed them on to General Warlimont for further preparation by the Referenten. But I know that General Jodl frequently influenced the drafts which were presented to him. Therefore, I said before that I do not know how much was done by the Referenten, and how much then by Warlimont or by Jodl, because I saw only the final result. As to how operations generally were prepared by the OKW and further developed, I must say honestly that this actually is a question which Jodl definitely can answer in a much more concrete and exact way. For he was the chief after all. It must not be overlooked that I not only had to do with the Armed Forces Operations Staff or office, but with all offices such as counterintelligence, armament, interservice estimates, legal matters, etc. All these matters claimed the same priority, so to speak, and naturally also took up my time.

As regards the Commando Order of the Fuehrer, of 18 October 1942, as far as I remember, Warlimont, as deputy chief of the Armed Forces Operations Staff, at that time obtained the first basic information from the authorities on international law. It can only be stated now that General Warlimont made an attempt to prepare a first draft in accordance with the orders given by Hitler. This draft was not approved. In Jodl's absence, Warlimont acted as his deputy. As regards these questions I can say only that according to the German way, the chief of each office—thus I, as chief of the OKW; Jodl as chief of the Armed Forces Operational Staff; Warlimont as deputy chief—signed what they believed they could pass on in their own name, on the basis of decisions reached on higher levels, if it was in concordance with the highest authority and had been submitted for approval to that authority. I recognize Warlimont's initials on Document 446-PS. (*Prosecution Exhibit 1200.*) Warlimont took part also in the preparation of Document 447-PS. (*Prosecution Exhibit 588.*) He was given, by me or by Jodl, orders to let the work proceed according to instructions. That was the cooperation between the officers of the general

staff of the army, the navy and the air force. In Department L there were Operation Group H [army], Operation Group L [air force], and Operation Group M [navy]. These three groups worked together, while the OKW was *primus inter pares*, in most cases determining the final wording. In this manner these directives were created, also the famous Directive 21. If I am not mistaken, it was certainly completely rewritten five or six times. Directive 21 was initialed by von Lossberg, I [section] Operations [Group] Army, by Warlimont, Jodl, and myself. These initials were required by Hitler, for if each of us had not indicated his participation, in particular Jodl and I, then, when something was presented to him for signature, he would have said: "I am not going to sign this. Did Jodl and Keitel see this?" Then the adjutant would have had to answer: "I don't know." He demanded a note from each of us. By that, however, we did not sign, we only certified the correctness of the contents. Directive 21 was initialed in the following way by Warlimont: Jodl looked it through first and put his initial on it. Lossberg went to Warlimont and said: "Everything in order; it has been carefully checked in particular all place names in the East and the West—mistakes could easily occur there—and initialed." Then Warlimont wrote his "W. 16/12". He always did that in a very careful way. Then Jodl found himself a space, and then sent it on to me, telling me he would present the final order No. 21 to him the same day—"Please initial this." Thus, [Handwritten marginal note:] This is a mere hypothesis! I assume it to have been like that, and stated it as an example. [initial] K.

this came into existence. Lossberg belonged to the staff of Warlimont, he was in charge of Operations [Group] Army, the responsible authority, so to speak, who put matters into the machine and finally took them out again. Nobody signed except with his full name. Warlimont played a similar part in the preparation and organization of other operations and negotiations, with this one difference, that Jodl in the year 1939, that is after 1 November 1938 until 25 August 1939, did not take part, being away from Berlin in Vienna. At that time Warlimont was immediately subordinate to me. Otherwise this working technique was always the same.

I have read the foregoing statement, consisting of four pages, in the German language, and declare that this is the full truth to the best of my knowledge and belief. I had opportunity to make changes and corrections in the above statement. I made this statement freely and voluntarily without any promise of reward, and I was not exposed to any kind of coercion or duress.

[Signed] W. KEITEL

PARTIAL TRANSLATION OF DOCUMENT NOKW-065
PROSECUTION EXHIBIT 36

EXTRACTS FROM AFFIDAVIT OF GENERAL JODL¹, 26 SEPTEMBER 1946,
CONCERNING THE POSITION OF DEFENDANT WARLIMONT AND
THE ORGANIZATION AND FUNCTIONING OF THE WEHRMACHT²

I, General Alfred Jodl, being duly sworn, depose, and state:

General Warlimont took over my position as chief of the Department of National Defense in the OKW in October 1938. There he had, of course, the same duties as I. They were: first, the study of the problems of armed forces leadership in general, which was something new in relation to the co-operation of the three branches of the armed forces. Studies were carried out by means of map exercises (war games). Further all operational preparations for a possible war, which was the principal activity, and working out Hitler's directives for such a case. Next, the co-ordination of the individual deployment plans of army, navy and air force; further, the working out of mobilization preparations of state and people, and of the mobilization of the top Reich authorities. For this purpose, the Secretariat of the Reich Defense Committee, a committee composed of experts from all ministries, was added at that time to department "L". Those were approximately the principal activities.

In 1938, Warlimont represented the OKW at the Berlin conference, where the questions of the occupation of the Sudetenland were discussed. This was after the Munich Agreement, which had established the border only roughly; and now the countries fixed the border definitely with the participation of the Czechoslovakian Legation and of the French Ambassador. Warlimont was sent there, I think, either by me, or by Field Marshal Keitel at my suggestion. Warlimont was to represent the military interests on the occasion of the fixing of the new borderline, and to say exactly how the line of fortifications should run; at any rate he was to represent the military points of view concerning the fixing of the border in relation to the foreign office. He was the military adviser of the German foreign office.

Warlimont's duties and activities with the Armed Forces Operations Staff, from 1939 to 1944, were as follows: His principal work was the direction of my entire staff. I was somewhat separated from my staff because of Hitler's habits; not very far, it is true, but always somewhat separated, as I always had to be in Hitler's immediate vicinity. No very large staff could be there;

¹ Chief of the Armed Forces Operations Staff (WFSt), in the High Command of the German Armed Forces (OKW); defendant before International Military Tribunal. See Trial of the Major War Criminals, vols. I-XLII, Nuremberg, 1947.

² The remainder of this affidavit is reproduced in section VI.

rather it always had to be kept small. Consequently my staff was always some distance away, depending on the location of headquarters.

In Berchtesgaden the situation was so bad in the beginning that, while I was in Berchtesgaden, my staff had to work in a staff train in Reichenhall, because there was no room at the Berchtesgaden railroad station. Later on it was a little better. I worked in the new Reich chancellery in Berchtesgaden, and my staff in the local mountain infantry barracks, a good half-hour's walk away. In the large headquarters in the West or in the East, near Rastenburg, we were closer together, perhaps 15 minutes apart. My staff was not with me, and I had only one or two general staff officers.

Warlimont's principal activity was to assign the entire work of the staff and to issue directives for that work. He supervised everything. He received orders from me concerning his work; discussed it with the general staff officers, examined the drafts, signed them, and sent them to me.

Another special activity was his direct cooperation with Field Marshal Keitel, concerning all the questions which I did not handle, problems which did not concern me. I concentrated almost exclusively on operational problems. Warlimont handled, without my participation, any other administrative questions in the occupied territories, any economic questions—in short, all questions which were not of an operational nature, which had to be sent in the form of orders by Keitel to the other offices. As to operational questions, he prepared and submitted them to me. As to other questions, he cooperated independently with Keitel—who had no staff of his own at headquarters—without my participation, particularly as he was better trained for these matters (political and economic questions) than for operational ones. He was more concerned with economic, rather than with operational questions. Beside these principal activities, the operations staff of the armed forces was in charge of military propaganda (i.e., not propaganda for the people, but for the troops), propaganda among the enemy, military reports, and censorship—all matters which in your army were concentrated in the press office under the chief of the general staff.

And in a third section, which I have already mentioned—armed forces communications—the means of communication were distributed on a large scale. There was naturally a fight between the three branches of the armed forces for these communication lines. This was taken over by the armed forces communications department, which also uniformly regulated the call signals of radio stations within the entire armed forces, and which applied itself,

in a special group, to research and construction of new means of communication. Those were the three principal activities of the Operations Staff of the Armed Forces.

* * * * *

In general, operations were planned and developed by the Armed Forces Operations Staff exactly as in general staffs the world over. Laymen often have an erroneous conception of it. As a rule, such operations are not developed in a moment, but, if enough time is available, they develop gradually during weeks. The only difference in our position from the custom formerly prevailing in the German Army, and in contrast to other countries, where the authoritative chief of the general staff or the chief of the operations section first makes suggestions, was, that in our army it was exactly the contrary. Hitler decided in advance that this or that had to be done. In order to be able to do that, he, of course, asked for various basic information, such as maps, estimates as to the enemy's resistance, what was known about the enemy, and so forth. He then retired with this information, brooded one or two nights over it, and came back with a final decision, which he ordered to be worked out in detail. It was then arranged in detail, prepared by the officers of the general staff, worked out and examined by Warlimont, and submitted to me. I changed what appeared to be incorrect, and then it was submitted to the Fuehrer. Sometimes, he made alterations and said: "No, I want this done *in this way*." He exerted a stronger influence on the issuing of orders than is customary with commanders in chief. This varied in the various campaigns.

Those that could be prepared a long time in advance, such as the campaign in the west, were changed a dozen times in the course of the weeks and months, and gradually altered more and more, until the final plan was altogether different. Or the campaign in the east, the plan of which was changed in many details in the course of conferences. In other campaigns, such as the one against Yugoslavia, there were no changes in the plans. In that case decisions were made one day and the preparations were begun the next.

However, I should like to emphasize one thing, it was not the operational plans which the Armed Forces Operations Staff drew up, it was only more or less the strategic directives for the individual campaigns. The operational plans themselves were worked out by the general staff of the army, or the air force or the navy. The orders were issued to the three branches of the armed forces and they were told: This is the situation; things look thus, and such is the political and military situation; Hitler's decision is

such and such; this is the task of the army, this the navy's, and this the Luftwaffe's concern. In the beginning—until winter 1941–42—the activity of the Armed Forces Operations Staff, with the regard to the large-scale strategic instructions for warfare, had been concerned with those matters exclusively. From winter 1941–42 on it became different, quite different.

From then on, Hitler assumed the supreme command of the army. He thus was at the same time, Supreme Commander of the Armed Forces and Commander in Chief of the Army. And now the peculiar situation arose, that as Supreme Commander of the Armed Forces and, therefore, of all three branches, he, with the help of the Armed Forces Operations Staff as executive staff, issued directives to the army, navy, and air force, and then had to execute his own directives with the general staff of the army. This, and the fact that the eastern theater of operations was so predominant because of its extent and the great number of units, and, because the other theaters of operations were relatively calm and required a particularly close cooperation between the navy, air force, and army, as there was nothing but coastal defense—due to these three reasons, the general staff of the army and the Operations Staff of the Armed Forces became two general staffs which worked along parallel lines. The Armed Forces Operations Staff had no superior authority, and the two staffs worked on the same level, in as much as the general staff of the army under Hitler's direct authority dealt with the entire eastern theater of operations. The Chief of the General Staff of the Army—Halder and, later on, Zeitzler—dealt solely with the eastern theater of operations, and the Armed Forces Operations Staff dealt with the other theaters of operations. Thus, it was as if there had been under the command of one supreme commander, one section West—North—South, and one East. Hitler handled, with two high ranking general staff officers and me, the western, northern and southern theaters of war, and the general staff of the army dealt with the eastern theater of war. This was from winter 1941–42 on. This did not prevent the Armed Forces Operations Staff from retaining all the problems which were decisive for the conduct of the war as a whole. The forces had to be balanced between the east and the west. The difficult problem of the distribution of forces among the other theaters of war, which was particularly important in our military situation, remained with the Armed Forces Operations Staff. This organization resulted in countless difficulties. It was certainly not very good. The supplying of all theaters of war—including those handled by the Armed Forces Operations Staff—had to be carried out by the Generalquartiermeister of the Army, because he alone had the necessary organiza-

tion. Many things were handled by the general staff of the army; for instance, the section which dealt with foreign armies (Americans, Englishmen, Frenchmen). This section had to report to me, although it was a section of the army. This resulted in a great many difficulties, which were adjusted in the course of time.

In reference to Warlimont's participation in the drafting, formulating, amending, and execution of Hitler's Commando Order of 18 October 1942, and to the documents (506-PS, *Pros. Ex. 158*; 531-PS, *Pros. Ex. 159*; 551-PS, *Pros. Ex. 162*; 1263-PS, *Pros. Ex. 122*; 1279-PS, *Pros. Ex. 165*) submitted to me, I declare the following: Every time when the heading is, "Armed Forces Operations Staff Qu.", it referred to the Quartiermeister Department. In this case, as a rule—I say, as a rule, not always—they were matters which were handled by Warlimont directly with Field Marshal Keitel. Sometimes, I saw one thing or another, but generally not. He participated in such things much more than I did. I worked but little with the Quartiermeister Department. In order to keep a clear head, I did not bother with all those things. Therefore, Warlimont participated to a great extent in all things where the Quartiermeister Department is mentioned.

Of course, I saw many things, but most of them I did not see. Naturally I saw everything pertaining to operational matters with which he dealt, except small matters of a subordinate nature, which he signed himself once in a while, such as unimportant individual orders about which he may have telephoned me beforehand. Important matters were prepared by him, and then submitted to me.

In the operational field we had one case, the famous preparation, which had been done without my knowledge. When, after the beginning of the Eastern Campaign, operations took a very rapid and favorable course, my general staff officers got together and discussed the further conduct of operations after Russia's collapse. They did this on their own initiative. I do not know whether Warlimont knew about it. Such things run in the blood of every general staff officer. His interest is not to hobble behind, but to be ahead with his drafts. This draft has been submitted by the Russians during the trial. I had not seen it before. It was not signed. It was a draft. And since my staff wanted to know at once and beforehand if the other branches of the armed forces agreed with it, and also to see if they thought differently, the draft was likewise sent to the navy. The navy on its part asked other departments, and there it was found. As a rule it was not like that; the first suggestions generally came from Hitler. He voiced such and such ideas and issued some directives, which passed through my hands. As a rule, Warlimont attended the most important con-

ferences. The conferences were held at noon and in the evening. At noon he was present and thus heard when Hitler issued some directives. They were the so-called "Situation Conferences," in short, "Situation." Among those present, whenever they were at headquarters, were Field Marshal Keitel and his adjutant; myself with both my general staff officers; General Warlimont, who always brought with him the operations expert of the navy, Captain Junge or Captain Assmann, of his staff. These navy people reported the situation of the navy. They did not belong to the navy, but to my operations staff, which was composed of three sections, army, navy, and air force. Other participants were the chief of the general staff of the army, who sometimes brought along 3 or 4 officers, and the chief of the general staff of the air force with some of his officers. The Chief of the General Staff of the Air Force, Jeschonnek, participated the longest. The commanders in chief came less frequently. This depended on whether they were in the vicinity or not. When they were in Berlin they came regularly; but often they were elsewhere and only came occasionally. Then, a representative of the Foreign Office was always present, as was the Reich press chief or his deputy. In the second part of the war, Himmler's deputy, SS Lieutenant General Wolff, and later SS Major General Fegelein, was always present. Then came the Fuehrer's adjutants, the three adjutants of army, navy, and air force, and the adjutant of the SS. Later on, there was a permanent representative of the Reich Marshal—that was Bodenschatz—who also attended and who reported to the Reich Marshal; and finally, a representative of the commander in chief of the navy. Those gentlemen came—let us say—above all to inform their commanders in chief of what was being discussed in general. They were permanent participants.

Then there were the frequent visitors from the front, the commanders in chief, who were asked to report in person; the commanders in chief of army, navy, and air force; and occasionally Himmler as well. This developed only in the course of the war into an increased audience, for in the beginning of the war, the circle of participants had been much smaller and more restricted.

* * * * *

For the rest, I draw attention to the perhaps important fact, that he [Warlimont] was present in the conference room at the time of the attempted assassination of 20 July. Except for the eardrum injury which everybody had, he had no external injuries. Shortly thereafter he flew on a special mission to France, to Field Marshal Kluge, in order to discuss there various matters, such as the conduct of the battle of the beachheads. He was sent there,

and the result was, that a little later, he broke down completely and had to be sent away because of concussion of the brain to which he had not paid any attention.

I have read the above statement consisting of ten pages, in German, and declare that it is the whole truth to the best of my knowledge and belief. I had occasion to make changes and corrections in the above statement. I made this statement voluntarily, without any promise of reward and I was not exposed to any duress or threat.

26 September 1946

[Signed] A. JODL

EXTRACT FROM THE TESTIMONY OF DEFENDANT WARLIMONT:
CONCERNING AFFIDAVIT OF GENERAL JODL²

DIRECT EXAMINATION

* * * * *

DR. LEVERKUEHN (counsel for defendant Warlimont): I would now like to put to you Document NOKW-065, Prosecution Exhibit 36. This is a written statement of General Jodl which he executed in Nuernberg on 26 September 1946. I should like to ask you to comment on this statement.

DEFENDANT WARLIMONT: It strikes me in this statement that the German language has been badly mistreated. As I know from many years of experience Jodl was a perfectionist in the use of the German language. It is difficult for me to find an explanation for this discrepancy. I can only assume that this statement was made in a similar manner to the one which I experienced during my preliminary investigation:

Questions and answers preceded the compilation of a statement during which I was not allowed to make my own notes. A few days later transcript was given to me for signature. In this document the questions and answers which had been given were compiled into a consecutive text and, as I was told, after they had previously been translated into the English language and then retranslated into the German. The witness Lammers gave a similar description before this Court. According to my own experiences, I was not able in such instances to correct such a record as to its contents and as to the language used in a manner as would have seemed desirable. In spite of this fact, I signed such a record, without being forced to sign it. I did so, because generally speaking, it did

¹ Complete testimony is recorded in mimeographed transcript, 21-25, 28-30 June; 1-2 July, 1948, pp. 6312-7103.

² Extracts from Jodl's affidavit precede immediately.

correspond with what I had said. However, I have never been able to determine whether the text was complete, for I could only rely on my own memory.

Q. And as to the contents of this statement?

A. The statement contains numerous contradictions and repetitions, too, both to this statement itself as concerning Keitel's statement which was executed on the same or on the following day. There are contradictions and repetitions also with reference to the statements which Jodl gave prior to his examination before the International Military Tribunal. This might possibly be explained, at least partly, by the fact that Jodl had a very poor memory, a circumstance which contributed to the fact that in his staff report memoranda were customary instead of oral reports. His memory apparently deteriorated in the course of time and during his detention, because Jodl made statements before the IMT which incriminated him, although they are in complete contradiction to the true facts. I shall illustrate this with further examples when going into the details.

On the first page there are a large number of errors and mistakes. I was not a general, but a colonel when I took over the Department National Defense, Department L. I did not take over this position in October 1938, but in November. My tasks are precisely described in the service regulation which has been introduced in this Court. What is contained in this statement has almost no connection at all with the service regulation. It was not part of my tasks, for instance, to study in peacetime the problem of military leadership. I did not concern myself with this problem during the war games either. Just as little, it was the task of Department L to make operational preparations for the contingency of an armed conflict as Jodl states on the first page. Jodl calls this the principal activity, but that contradicts a statement contained on page 7 of his own statement. There he says, and I quote, "The Armed Forces Operations Staff did not have to deal with the operational plans, but only with the strategic directives for the individual campaigns." Here we already see the contradiction between Jodl's statements and reality.

In his oral testimony before the International Military Tribunal, Jodl described the situation as though the Armed Forces Operations Staff carried out operational tasks. Apparently Jodl was mistaking a good deal his own activity and the activity of his staff for the one of the General Staff of the German Army. It was his ambition to have the situation brought about which he described, but he was never able to realize this ambition.

On the first page of his statement he goes on to say that it was the duty of Department L, (national defense) to coordinate the

deployment plans of army, navy, and air force. This again does not apply at all to times of peace, because the General Staff of the German Army did not show its deployment plans to the OKW. They were never submitted to the OKW, but even if this had happened later on in specific instances, if and when ordered by Hitler, this co-ordination would have been carried out essentially by the three branches of the armed forces themselves.

He goes on to say that the preliminary work of the mobilization of the State and the people was prepared in this staff. This again is incorrectly put. As I have stated earlier, there was a secretariat in the department which had to deal with the office matters concerning this activity.

On page 2 of the German text, Jodl goes on to say that in the fall of 1940, he had sent me to a conference in Berlin during which I was to represent the OKW—

Q. I believe you said, "1940"?

A. I am sorry, 1938. With respect to the new demarkation lines, I was to represent the military demands and I was to state exactly where the fortification lines were to be located. I can only repeat what I emphasized yesterday that I was sent to the conferences merely as an observer for the OKW and that military demands could not have been represented by me, because no military demands were made. It is completely incomprehensible to me what Jodl says about fortification lines since we did not even think of building a fortification line against Czechoslovakia.

In the second part of German page 2, he states correctly about the period of war, that it was my principal activity to direct his staff, but there again I did not direct the whole of his staff, as he asserts, but only that part of his staff which was represented in Department L.

Significant for his poor memory is a remark which he makes on the top of page 3, where he says that his staff worked in a command train in Reichenhall. Actually the command train was located near Reichenhall only on one occasion for a few days, whereas the train was located in Salzburg perhaps a dozen times, sometimes for several weeks.

Incorrect further, are the statements on the bottom of page 3 about the division of work between Keitel and Jodl. I was subordinate to Jodl alone and I was responsible to him alone, even on occasions when Keitel gave orders directly to Department L. A division of work to the effect that Jodl concentrated on operational matters and Keitel on the rest of the tasks has never come to my attention. I heard that for the first time here in Nuernberg after the war. Nothing of that kind has ever been ordered, but I stated

already this morning that as a matter of habit a method developed to the effect that Jodl retained all important matters as to be handled by him. On the other hand, he left many matters to Keitel which pertained to his (Jodl's) sphere of work, but which he did not deem important enough to deal with, himself. That was the very reason why Keitel objected to this development.

Nor is it correct to state the opposite, namely, that Keitel did not concern himself with operational questions. On the contrary he insisted with all emphasis on being allowed to receive simultaneously with Jodl, all matters which Department L submitted in this particular sphere. In the final analysis, it was left to me to decide what matters emanating from the staff were important, and which were unimportant, and correspondingly I passed them on. One fact, however, is certain. All matters which emanated from Hitler or which were to be brought to Hitler's immediate attention were only channeled through Jodl's person.

Keitel gives certain examples in his statement, as far as I remember it by heart. He mentions certain examples with respect to the immediate cooperation with the Armed Forces Operations Staff, such as supply questions, and certain matters which had to be negotiated directly with the central OKW agency in Berlin, primarily ministerial tasks. There were, for instance, the allocation of fuel for vehicles, to the three branches of the armed forces, routine communications with top level Reich agencies, and almost all organizational questions. However, I would like to give you some examples to show that the most important matters in the Qu. Department [Quartiermeister Department] were submitted to Jodl exclusively. I shall show this in the further course of my examination in the report memorandum for the Commissar Order, as well as with the aid of the documents which are available here about the Commissar Order, with the reference to the year 1942, as well as for the year 1944.

Furthermore, Keitel, as well as Jodl demanded that this be done, because Keitel was dependent on Jodl, who was a much stronger personality, and therefore, he did not deal with such matters independently. Jodl, would have seriously objected if matters of his staff had been submitted directly to Hitler without his knowing about it previously.

Jodl's statement, however, is incorrect in yet another aspect. I am referring to his statement that he only concerned himself with operational matters. It is simply contradicted by the fact that he had several other departments in his office, such as the propaganda department or group, the department armed forces signal communications, and the group foreign countries, to which later on

the attache department of the German Army was attached. I did not have anything to do at all with these tasks.

Q. What about your participation in the preparation of operations?

A. In large outlines, I believe I testified to this, this morning, and as to the details, this will be shown in the discussion of the various campaigns. At this moment, I would only like to state that Jodl was unfortunately also mistaken when he said that I was present during almost all conferences which took place in Hitler's office. I believe he wanted to say, when he stated this, that from the end of 1943 onwards, after the conclusion of the period of the so-called aggressive campaigns, I attended the daily situation conferences.

I cannot imagine, however, how he could write that I observed the preliminary work for the individual operations and their development in almost the same manner as he did. This again contradicts another statement which he makes on page 6 where he says, I quote, "To the extent to which any work had to be carried out on these matters at all, I had to deal with him, I expect, since it has been ordered, that the staff will deal with it."

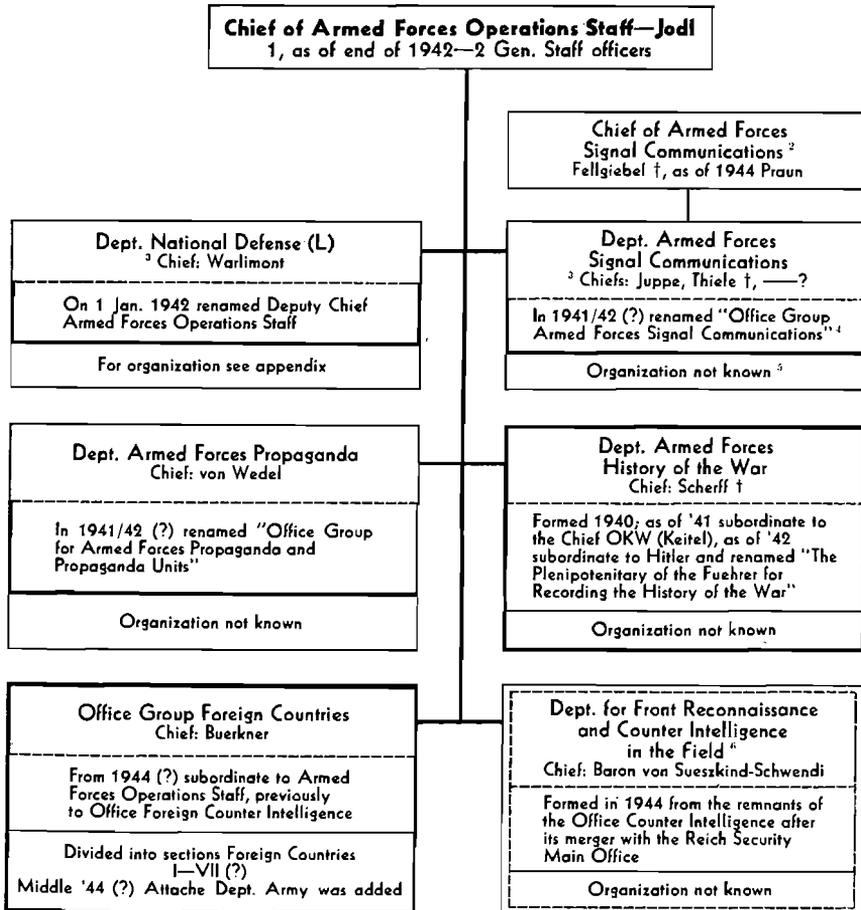
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TRANSLATION OF DOCUMENT NOKW-121
PROSECUTION EXHIBIT 29

ORGANIZATIONAL CHARTS OF THE ARMED FORCES OPERATIONS
STAFF (NO. 1), AND ITS DEPARTMENT NATIONAL DEFENSE (NO. 2)

Chart 1

Chart showing the organization of the Armed Forces Operations Staff as per 1 September 1939 with changes of organization up to 6 September 1944 in double frames.



Explanations

- ¹ The date I left.
- ² Simultaneously with the Chief of Army Signal Communications. Only *technically* subordinate to the Chief of the Armed Forces Operations Staff for *armed forces* tasks.
- ³ Rank of the department chief: Regimental Commander.
- ⁴ Rank of Deputy Chief of Armed Forces Operations Staff on same level as Office Group Chief: Divisional Commander.
- ⁵ Among others, the Coding Office belongs here.
- ⁶ Organization and subordination not finally clarified by September 1944; principally directed by the Chief of the OKW (Keitel) himself. [signed] W. Warlimont
12 October 1946
[† Deceased]

Chart 2

Appendix

Chart of the organization of the Department National Defense as per 1 September 1939 with changes made up to 6 September 1944.

Chief of the Armed Forces Operations Staff—Jodl

Department National Defense¹
 as of 1 Jan. '42 "Deputy Chief Armed Forces
 Operations Staff"—Warlimont (until Sept. '44)²
 1 ADC, 1 Keeper of War Diary³, 1 Commandant of
 Staff Quarters, 1 Paymaster

Group	I H (Army)	I M (Navy)	I/L (Air Force)	Ic (Enemy Situation)	II	IV	Total Number of Officers
	Op/H (1st Gen. Staff Off. Army)	Op/M (1st Adm. Staff Off.)	Op/L (1st Gen. Staff Officer, Air Force)	formed Autumn '42	Organization (2d Gen. Staff Off.)	Quartiermeister	
From 1.1.42 Dept.	von Losberg (until '42) Baron von Buitlar	Junge (until '43) Asmann	Baron von Sternburg† (until '40) Baron von Falkenstein (until '42) Berg (until '44) Boehm-Tettelbach	Krummacher	Schulz (Friedrich) (until '39) Muench (until '43)† Buecker (Autumn '43) Meichsner (until July '44)† Fett	Gause (until '39) Boehme (until '40) v. Tippelskirch (until '43) Poleck	15-20 Approx. 40
Group Leaders or Dept. Chiefs							
Officers 1.9.39	2-3	1	2		2	4 (including 1 civilian official)	15-20
As of 1942/43 increasing to approx.	10-12	—	—	1-2	10-12	8-10 (including 2 civilian officials)	Approx. 40
Sub. Division	According to theaters of war, finally North West Southwest Southeast	None	None	None	Approx. I—Operational questions " II—Questions of a personal nature " III—Questions of material armament " IV—Armed Forces employees, liaison with Reich Labor Service and Org. Todt. " V—Statistics	Frequently changed as of 1943 approx. Qu. 1—Supply and Transport questions Qu. 2—Gen. Qu. questions Qu. 3—Motor fuel questions " Administration 1—Legal matters " Administration 2—Liaison with "Civilian Reich Defense"	

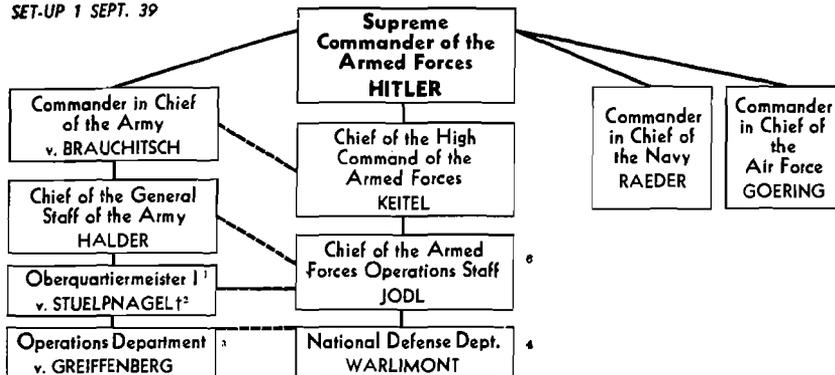
Subordinated Branch Office
 (As of approx. 1942):
 Home Staff
 Overseas
 Control Office for supply to Scandinavia:
 Controller: Berling†
 v. Loebell

¹ Rank as Dept. Chief: Regimental Commander—as Deputy Chief Armed Forces Operations Staff: Divisional Commander.
² The office was the locally installed "Working Staff" of the Chief of the Armed Forces Operations Staff. Its chief carried out the tasks of a deputy chief of staff within the sphere of the Armed Forces Operations Staff, as shown in this chart, except for the frequent official contact directly between the chief and the individual groups of his working staff.—c. f. attached extract from Jodl's official letter of separation [Abschiedsbrief] dated 3 December, 1944.
³ Barely one-third of the number were General Staff officers; the remainder field, mostly reserve officers.
⁴ As of 1943 directly subordinate to the Chief, Armed Forces Operations Staff.

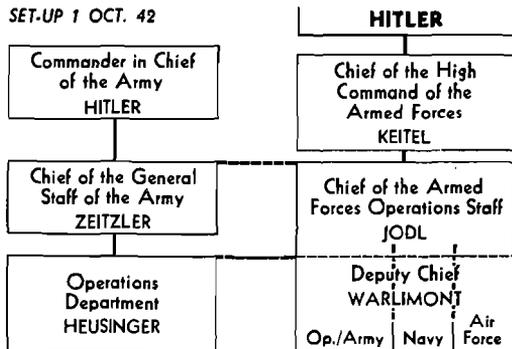
TRANSLATION OF DOCUMENT NOKW-212
PROSECUTION EXHIBIT 30

COMPARATIVE DESCRIPTION OF OFFICES OF THE HIGH COMMAND OF THE ARMED FORCES AND THE HIGH COMMAND OF THE ARMY IN THE DOMAIN OF OPERATIONAL COMMAND, ACCORDING TO RANK

SET-UP 1 SEPT. 39



SET-UP 1 OCT. 42



Explanations

¹ On the same level: "General-quartiermeister of the Army" and others.

² Later on: Miesch, Paulus, Blumentritt.

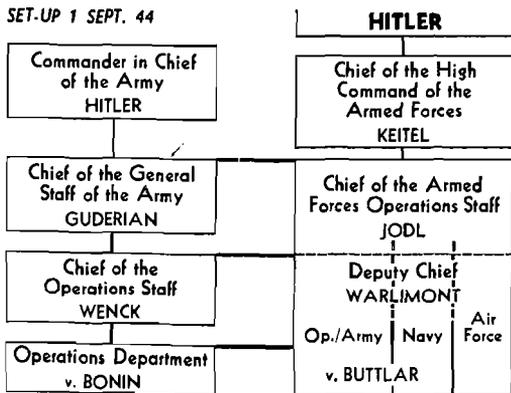
³ On the same level those departments furthermore necessary for the operational command, to wit, Organization Dept., the Depts. "Foreign Armies West" and "East" Transportation Dept., Supply Dept.

⁴ Sole Department of the High Command of the Armed Forces for operational tasks of the High Command of the Armed Forces for all 3 branches Army, Navy, Air Force, including organization, transportation, and supply tasks; as of autumn 1942 on also reports concerning situation of the enemy.

⁵ Dotted lines-----characterize the ranks; diagonal lines / subordinate; horizontal lines ----- equal rank.

⁶ The other "offices" of the High Command of the Armed Forces classified on the same level as the Operations Staff (Dept. Foreign Counter Intelligence, Economy and Armament, General Armed Forces Office), are not mentioned on this chart, since they were not directly connected with the operational command.

SET-UP 1 SEPT. 44

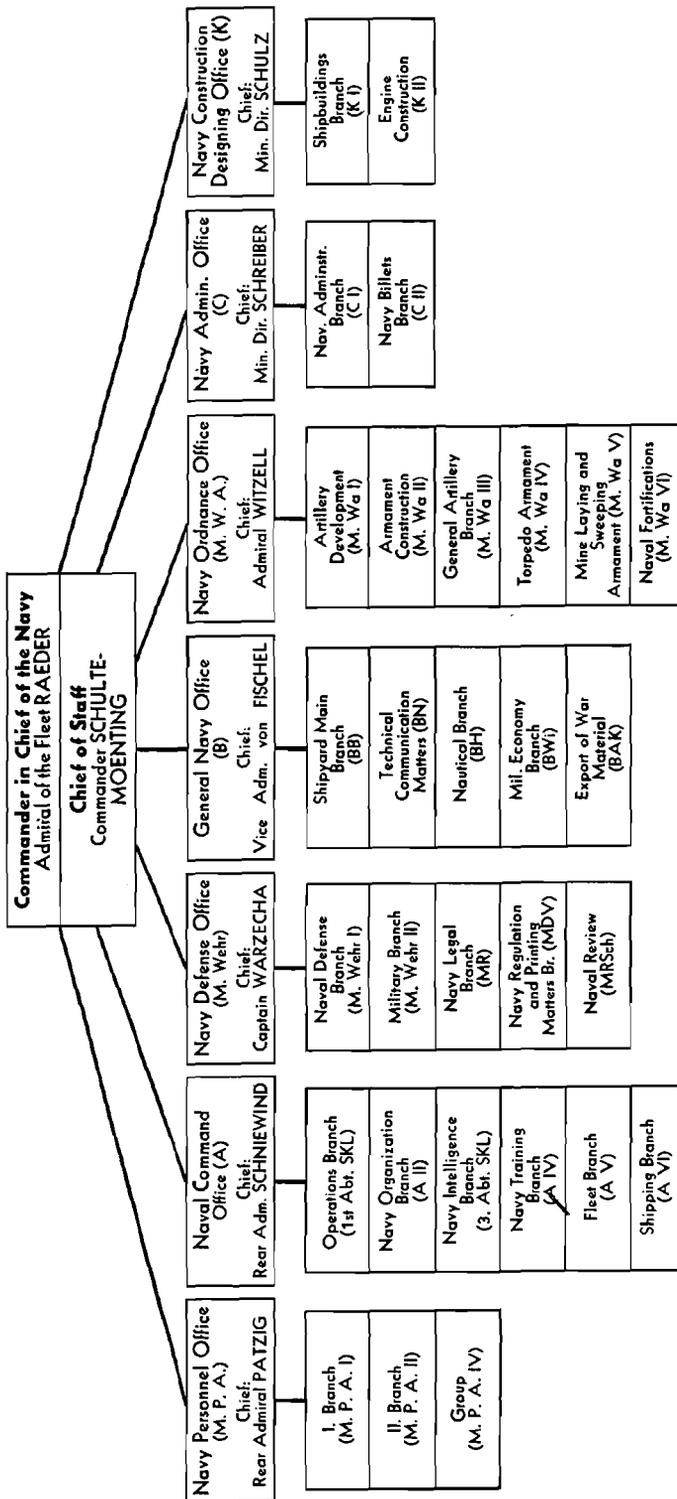


[Certified:]

4 November 1946 [signed] Walter WARLIMONT

2 November 1946
[signed] W. WARLIMONT

ORGANIZATIONAL STRUCTURE OF THE HIGH COMMAND OF THE GERMAN NAVY (OKM)

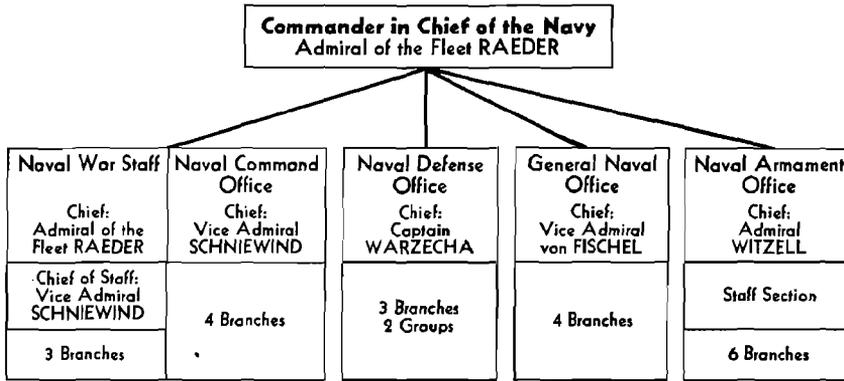


I herewith certify that this chart is true and correct. [Signed] OTTO SCHNIEWIND

TRANSLATION OF DOCUMENT SCHNIEWIND SKL 112
SCHNIEWIND DEFENSE EXHIBIT 2

THE NAVAL WAR STAFF WITHIN THE OKM

(High Command of the Navy)



EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS
GENERAL KURT LINDE*

DIRECT EXAMINATION

MR. RAPP: Witness, will you please state your full name slowly?

WITNESS KURT LINDE: Kurt Linde.

Q. Are you a German national?

A. Yes, sir.

Q. How old are you?

A. Fifty-two years.

Q. What is your profession?

A. I am without a profession. I was an active army officer—
professional army officer.

Q. In what year did you join the German Army?

A. I joined the German Army in August 1914.

Q. When did you become an officer?

A. In May 1915.

Q. Did you serve in the Second World War?

A. Yes, I did.

Q. What was the highest rank you attained?

A. Brigadier general.

Q. Are you a prisoner of war?

A. I am—at the end of 1947, I was discharged as a prisoner of
war.

Q. Witness, can you very shortly, and in a few words only, de-
scribe your duties and assignments between 1935 and 1940?

A. In 1935, I became major and commander of a company of the
13th Infantry Regiment. On 1 May 1936, I was transferred to the
Reich War Ministry, to the Supply and Welfare Department of
the armed forces. In this position I remained as Referent and
department chief until 30 September 1939, and on 1 October 1939,
I became Chief of Staff of the General Armed Forces Office
(AWA) of the OKW. From 20 July 1940, until the end of Septem-
ber 1941, I was commander of a regiment at the front. On 1
October 1941, I once again became Chief of Staff of the General
Armed Forces Office in the OKW, and on 1 February 1944, I
became deputy chief of the General Armed Forces Office of the

* Complete testimony is recorded in mimeographed transcript, 6 February 1948, pp. 208-222.

OKW. I held this position until the surrender, or rather until my capture on 26 May 1945.

Q. Witness, you told us that you were a member of the so-called "Versorgungsabteilung" [Supply Department] of the RKM [Reich War Ministry]. If I understood you right, until 1939. Was the Reich War Ministry at that time still in existence? I mean in its name?

A. No. The Reich War Ministry was replaced by the OKW, the High Command of the Armed Forces, and that was on 4 February 1938.

Q. Witness, you then told us that after you left the position in the, "Versorgungsabteilung", you were transferred to the AWA [General Armed Forces Office]. Can you describe for us very shortly what the function of that particular office was?

A. The General Armed Forces Office was the office within the OKW in which the bulk of the tasks of the Ministry of War were incorporated. It was divided into three departments with seven sections, and independent head department, and three further independent departments, as well as numerous subordinate agencies. It consisted of the department entitled, "Inspectorate, Supply and Welfare Matters", to which the departments, "Armed Forces Supply" and "Armed Forces Instruction", were subordinate. Furthermore, four armed forces welfare and supply groups were subordinate, with 16 subordinate armed forces supply and welfare offices; the armed forces instruction department, which had to deal with the direction of armed forces technical education centers; and the direction of training schools for the armed forces technical and agricultural centers. The Berlin-Frohnau Disabled Veterans Settlement was also subordinate to it, and a department for armed forces settlement.

The next department was the, "Armed Forces Administration Department", consisting of three subordinate departments, whose tasks consisted in the regulating and settling of general administrative matters of the armed forces, which had to be jointly settled for all three branches of the armed forces. Under the armed forces administration department came also the treasuries of the OKW and the pay offices.

The third department, which was not, however, designated as such, was the office of the Chief for Prisoner of War Affairs, consisting of a chief with two subordinate sections. This, on 1 October 1944, was reduced by one section, which was transferred to the Chief for Prisoner of War Affairs of the Armed Forces. It was

then assigned to the commander in chief of the Replacement Army, and on his behalf to SS Lieutenant General Berger.*

In the OKW the former office of "Chief for Prisoner of War Affairs" was renamed "Inspector of Prisoner of War Affairs, OKW". One of its former sections remained and had to deal with routine office matters.

The General Armed Forces Office had furthermore three independent departments; the Department for General Matters; the Department for Military Science, and the Armed Forces Casualties Department. The Armed Forces War Casualties Information Center was subordinate to the Armed Forces Casualties Department, as were also a number of war graves registration units, units of the Armed Forces Casualties Department, which were assigned to the front line, or to the zone of the interior, and which were constantly changing.

Q. Now, Witness, who headed that entire organization, this particular, "Allgemeines Wehrmachtamt" [General Armed Forces Office], that you were talking about?

A. The chief was General Reinecke.

* * * * *

Q. Witness, a few words about the mission of the National Socialist Guidance Staff.

A. The National Socialist Guidance Staff had to see to the spiritual and material welfare of the armed forces by distributing and disseminating literature, and training National Socialist guidance officers. Those were the principal functions.

Q. And who in the OKW was head of that?

A. General Reinecke.

Q. Witness, when did you join the General Armed Forces Office?

A. On 1 October 1939.

Q. And you were still there in 1942; is that correct?

A. Yes.

Q. Could you give us, very shortly and concisely, an idea of who was responsible within the General Armed Forces Office during the time that you were in it, in the year 1942, as far as the administration of prisoner-of-war affairs is concerned?

A. At the highest level, the person responsible for prisoner-of-war affairs was Hitler, for whom and by whose order the chief

* Defendant in case of United States *vs.* Ernst von Weizsaecker, et al., Case No. 11, vols. XII, XIII, and XIV.

of the OKW, Keitel, was responsible for prisoner of war affairs. Subordinate to Keitel in the OKW was the General Armed Forces Office, as the responsible agency working in touch with the office of the Chief for Prisoner of War Affairs. The Chief for Prisoner of War Affairs also had two administrative departments under him, the General Department and the Organizational Department, which at that time were staffed by Colonel Diemer, and—I don't recall the name of the chief of the General Department. It may have been Breyer. I believe it was Breyer. The chief for Prisoner of War Affairs at that time was Graevenitz.

Q. Who was he directly responsible to? Who was his superior?

A. The superior of Graevenitz was Reinecke.

Q. Now, was there any reorganization in the structure of the department for Prisoner of War Affairs during 1942, or right after 1942?

A. No. No change took place until 1944. In 1944 the chief of the General Armed Forces Office, Reinecke, was appointed chief of the National Socialist Guidance Staff in the OKW, while at the same time he was charged with carrying on the business of the General Armed Forces Office. In order, however, to help him with his tasks as chief of the General Armed Forces Office, the office of deputy chief of the General Armed Forces Office was formed, and to this office of deputy chief the former chief of staff—that was I, at the time—I was appointed. According to his instructions, the deputy chief of the General Armed Forces Office had to conduct the business affairs of the office independently. In special basic and important questions he had to consult the chief.

* * * * *

CROSS-EXAMINATION

DR. LEVERKUEHN (counsel for the defendant Warlimont) : In your direct examination you enumerated different offices pertaining to the OKW, but you did not refer to an office called Foreign Counterintelligence.

WITNESS KURT LINDE : I had forgotten that.

Q. Is that known to you as a very comprehensive and large agency? It was just a mistake on your part, was it not?

A. Yes. It was.

Q. Witness, what official contacts did you have with the Wehrmacht Operations Staff?

A. We had contacts with the Operations Staff in all questions touching upon administration and organization; that is to say, in

all those departments of the deputy chief of the Wehrmacht Operations Staff, that is, of the Department O and the Department Qu.

Q. "O", I take it, means organization, and "Qu" means quartermaster affairs, does it not?

A. Yes.

Q. Then your knowledge as to the assignments and tasks derives from your official contacts?

A. Yes, from my official contacts, and also, naturally, from my knowledge of the over-all situation within the OKW, as gleaned from conferences and conversations.

Q. Did you have any dealing with the deputy chief of the Wehrmacht Operations Staff, Warlimont?

A. Very little, as far as he personally was concerned, but rather with his section chiefs, for example, when I was Chief of the Staff of the AWA, I frequently had contacts with him.

Q. Witness, you talked about your position as deputy chief in the AWA, and you also spoke about your functions. Do you know precisely what the position of the deputy chief of the Operations Staff was?

A. No. I did know that there were service regulations in the OKW defining the position of every individual department chief, Amtsgruppenchef, and deputy office chief, and so forth.

Q. Then I am correct in assuming, am I, that your relationship as deputy was prescribed in a certain way, which in no way reflected on the others, but that you were bound by special regulations?

A. For every office, or for every agency, there was a special service regulation prescribing the business in detail and delimiting the competencies of the chiefs.

Q. In your statement you said that the Wehrmacht Operations Staff was not competent for the East, but for all the other theaters of war. Was that true during the whole of the war?

A. As far as I recollect, that only happened at the moment when Hitler took over the position of Commander in Chief of the Army, but I may be wrong, my memory may be playing me a trick. I only know that from conversations, and I have no direct official knowledge of the matter.

Q. I understand, then, that you did not know the service regulations of the Wehrmacht Operations Staff?

A. I read that, of course, when it was routed to us, but I cannot recall it in detail.

Q. Certainly, Witness, I understand.

DR. LEVERKUEHN: Thank you.

DR. GRUENEWALD (counsel for the defendant Lehmann): I have some questions in cross-examination, Your Honor.

Among the various offices of the OKW, the Wirtschaftsamt, the Military Economy Office, has not been named. Is that known to you?

WITNESS KURT LINDE: The Military Economy Office was also one of the offices of the OKW.

Q. Was it a very big agency?

A. Yes. Certainly, it was a very large agency, with many departments.

Q. Is it known to you whether legal affairs were only dealt with by the legal department in the OKW, or whether they were also dealt with by other agencies?

A. You mean general legal affairs—legal affairs in general?

Q. Yes.

A. I know that in questions of international law, the bulk of the work, as far as I remember, was performed by the office for counterintelligence abroad. That was in the office group for foreign countries, in which, as far as I remember, there was a special department or group for international law. I can't recall it in detail, but it dealt with questions of international law, it discussed these questions of international law with the chief of the OKW and also with the Foreign Office, and transmitted them, and represented our view towards neutral countries.

Q. Did the Wehrmacht branches have a legal department?

A. Every chief command of the Wehrmacht had its own legal department, or at least a large machinery for dealing with questions of law. For instance, the High Command of the Army, of the Air Force, and of the Navy had their own legal departments, which I know in part.

Q. Do you know whether there was a relationship of subordination concerning the chiefs of these legal departments?

A. I think that is quite out of the question because, considering the whole structure of the Wehrmacht organization, it would have been incompatible with the Wehrmacht structure for that to have been the case. An agency of the OKW, which had the authority

to command or to issue directions to agencies of the army, navy, or air force was not known to me. From our point of view, from the point of view of the AWA, the office group administration in our department was not a superior agency of the administrative offices in the Wehrmacht branches; also, the Wehrmacht educational department was not the superior agency of the Wehrmacht and educational centers of the Wehrmacht.

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS
GENERAL ADOLF HEUSINGER*

DIRECT EXAMINATION

MR. RAPP: Witness, will you please state slowly your full name?

WITNESS ADOLF HEUSINGER: My name is Adolf Heusinger.

Q. How do you spell that, please? How do you spell Heusinger?

A. H-e-u-s-i-n-g-e-r.

Q. How old are you?

A. I am 50 years old.

Q. Are you a German national?

A. Yes.

Q. Were you ever a member of the German Army?

A. I was a member of the German Army from 1915.

Q. Were you in World War II?

A. Yes.

Q. What was the highest rank you attained?

A. I was major general.

Q. Where did you serve during World War II?

A. I served with the OKH.

Q. And what was your position?

A. At first, I worked in the Operations Department, and later on I became its head.

Q. And just when was that?

A. From 1937 until the fall of 1940 I worked in the Operations Department; and from the fall of 1940 until 20 July 1944, I was the head of that department.

Q. Can you explain to us briefly your duties at that time?

* Complete testimony is recorded in mimeographed transcript, 6 and 9 February, 1948, pp. 233-268.

A. In the Operations Department I had to work on war operations; first as Ia and later on as head of that department, according to instructions which I received from the Oberquartiermeister or the Chief of the General Staff.

Q. General Heusinger, to get this clear in the record, would you please be so kind and for the benefit of the Court and in order to assist the interpreters, so that we get a unified interpretation, to repeat that once again, if you please.

A. In the Operations Department I had to work on operational leadership within the army, as Ia first of all, in a subordinate position, and later on as chief of the department. I had to do this according to the order and instructions which I received from the Chief of the Ordnance I, [Oberquartiermeister I] or the Chief of the General Staff of the Army.

Q. Did you say Chief of Ordnance, interpreter?

THE INTERPRETER: There is no equivalent for it in the U.S. Army. Oberquartiermeister is, "ordnance," in the U.S. Army.

MR. RAPP: It is somewhat new to me, but is that correct? As far as I know, it is a combination of approximately G-2, G-3, and G-4.

We have no equivalent for it in the American Army, and in that way everybody can get used to it and we don't talk about different things. If that is acceptable to the Tribunal—very often there are no American equivalents, and I think the best thing is to use the same terminology.

JUDGE HARDING: What is the German terminology?

MR. RAPP: The German terminology is Oberquartiermeister, and there is no word that would cover that, unless you would describe that in about three sentences. Is that agreeable to the Tribunal?

PRESIDING JUDGE YOUNG: If there are no equivalents in the American terminology, they probably should retain the German method of expressing it, and then we can dig that out from the record.

MR. RAPP: Very well, Your Honor; that is very agreeable.

Now, Witness, prior to your position as Ia of the operations department, what did you do?

WITNESS HEUSINGER: After the last war, until the year 1932, I was in the troop service of the adjutant's office, and also in the leaders, training corps. From 1932 until 1934, I worked in office 1 of the Troops Department, and in this position I had to deal with questions which came within the scope of national defense and

problems of air raid precautions for the troop units. From 1934 until 1935, I was a company commander at the front, and from 1935 to 1937, I was in the troop General Staff of the 11th Division, in Allenstein, in East Prussia. From 1937 on, I was in the Operations Department, as I have already mentioned.

Q. Now, Witness, will you explain to us what this so-called Truppenamt—which you served in, I believe you said, between 1932 and 1934—was all about; and, if you please, I think everybody concerned would appreciate if you go really slowly because there are so many technical terms. We would like to give the interpreters sufficient time to interpret correctly, and use the German word if there is no corresponding word in the English.

A. The German Army, when it consisted of 100,000 men, was headed by the Chief of the Army Command [Heeresleitung], and below him were a number of offices: The Troops Department, the Personnel Office, the Armament Office, the Administration Office, and the General Army Office. At the head of the Troops Department was the Chief of the Troops Department, and at the time when I was in the Troops Department this was General of Artillery Adam, and later on General of Artillery Beck. This position of Chief of the Troops Department was the predecessor of the position of Chief of the General Staff, which was established later on. The Troops Department at the time consisted of four sections, which in abbreviation were called T1–T4. T1 was the section which dealt with questions of national defense within the scope of the 100,000-man army. T2 was the section which dealt with organizational questions within the army. T3 was the section which had to deal with the armed forces of foreign nations; and T4 was the section which was in charge of the command and training in the 100,000-man army. That was the situation which prevailed when I worked in section T1 of the Troops Department in 1932–1934. When I returned in 1937, the General Staff of the Army, which had again been established, the general organization was as follows: At the head of the army was the Commander in Chief of the Army, General Fritsch. Below him there were the offices which I have mentioned before, which still remained in existence, that is to say, the Personnel Office, the General Army Office, the Armament Office, and the Administration Office. The Troops Department in the meantime had gone back to the General Staff, and at the head was General Beck, as “Chief of the General Staff of the Army.” This General Staff had been developed during the years, beginning at the time of the reintroduction of military sovereignty by the state leadership. It consisted of the four sections of the Troops Department which I have already mentioned. To these four sections, up to 1939, eight other sections had been added; they were

the transportation section, the supply section, the historical section, the expert technical section,—

Q. I think you are probably going a little too fast.

A. —the civil engineers' section, the national fortification section, and two training sections primarily for officers' training. Then we had two, "Foreign Armies," sections; one for "Foreign Armies—West," and one for "Foreign Armies—East." Altogether we had 12 sections in the general staff of the army, and they were consolidated under five so-called Oberquartiermeister in the years from 1937–1939. That was the organization which existed from 1937–1939, before the outbreak of the war.

Q. Now, Witness, in order to clarify this, tell me when was the so-called Troops Department put into operation?

A. The Troops Department was established on 1 January 1921, when the 100,000-man army was also established.

Q. And when was the position, I don't expect you to know the exact dates as to month, but when was the position of Chief of the Army Command created?

A. The position of Chief of the Army Command was established at the same time, that is when the 100,000-man army was established in accordance with the terms of the Versailles Treaty. It may be that the position as such was already established in 1919 or 1920, whereas the 100,000-man army was officially established only on 1 January 1921.

Q. And this organization remained, if I understand you correctly, until 1935, at which time the Chief of the Army Command became the Commander in Chief of the German Army, and the Chief of the Troops Department became the Chief of Staff of the General Staff of the German Army; is that correct?

A. In the year 1935, these changes were effected.

Q. And is there any reason why the General Staff and the Commander in Chief of the German Army were only designated as such in 1935, and not already in 1921 or 1922?

A. When military sovereignty was reintroduced in Germany, they received these titles.

Q. Were the functions of the chiefs T1 through T4 the same as the functions of the corresponding offices within the general staff from 1935, on?

A. The functions in general remained the same.

Q. So merely the names were changed.

A. In practice for these four sections only the names were changed, and the first department became the operations, and the second the organization department; the third became the department for foreign armies and the fourth the training department. While before that they only had the titles T1, 2, 3, and 4.

Q. Just a minute, Witness, when you see this red light, that means to stop for a minute or so.

A. The sections from 1935 on were called the operational department, the organizational department, the department dealing with armed forces of foreign countries, and the training department. While before that time they had only the titles T1, T2, T3, and T4. Therefore, in practice the letter "T" was taken away because the troops department was not called troops department any more.

Q. Just one or two more historical questions. Who was the superior of the chief of the army command—I don't mean by name, of course, I only mean by position.

A. The chief of the army command was subordinated to the Reichswehr Minister [Minister of Defense].

Q. And he was a member of the government?

A. The Reichswehr Minister was a member of the government.

Q. And who was the chief of the troops department subordinate to?

A. The chief of the troops department was subordinated to the chief of the army command.

Q. Was the name of the so-called Reichswehr Ministry changed?

A. The name was later changed to the name of Reich War Ministry [Reichskriegsministerium].

Q. Now, when the T offices were redesignated as branches of the general staff, that is in 1935, who was at that time the Reich War Minister?

A. The Reich War Minister was General von Blomberg.

Q. And then below this General von Blomberg?

A. Under General von Blomberg was the Commander in Chief of the Army, General Freiherr von Fritsch; and below him was the chief of the General Staff of the Army, General of Artillery Beck.

Q. And when was this particular status changed again?

A. To my knowledge it was changed when Field Marshal von Blomberg left, in the spring of 1938. That was when the functions

of the Reich War Ministry as such were taken over by Hitler himself, and with that the position of the chief of the OKW was established.

Q. Witness, when was the OKW created?

A. In my opinion in the course of the year 1938, after Field Marshal von Blomberg had left. Von Blomberg left in February 1938, and with that this reorganization was effected and the OKW was established.

Q. And that was also, if I understood you correctly, the last time that we can speak of the existence of the so-called Reich War Ministry.

A. Yes. One can say that. From that time on Hitler himself took matters into his own hands, and the Reich War Minister as such did not exist any more.

Q. Witness, I was not only referring to the functions of this office, which you already have clearly stated. I would like to know clearly from you whether or not the word "Reichskriegsministerium" actually disappeared in the annals of German military history?

A. Yes, at that time the term OKW took its place.

Q. Now, previously in your testimony, you referred to the Reich War Ministry. Was there any other organization of a military nature subordinate to that office besides the army?

A. At that time the navy was also subordinate to the Reich War Ministry, in addition to the army.

Q. Witness, will you explain the functions and responsibilities of the OKH between 1939, that is, from the outbreak of the war, the first of September, until the beginning of the Russian campaign on 22 June 1941?

A. The OKH in those years, 1939, first of all had the task of directing operations in the campaign against Poland, according to the orders which had been issued by Hitler. At the same time, in 1939, it had the task of the defensive protection of the western border between Germany and France, also in accordance with Hitler's instructions. In the year 1940, it had the task of the operational direction of the campaign against France, on Hitler's orders; and in the spring of 1941, it had charge of operations in the campaign against the Balkan countries, according to the instructions of Hitler. In the meantime, two theaters of war had been established with which the OKH had nothing to do. One was the Norwegian theater, and the other one was the theater of operations in Africa; so that the authority of the OKH, as far as

directing operations was concerned, already in the years up to the beginning of the campaign in Russia, was gradually limited by the fact that the Norwegian and the African theater had been taken away from the OKH, and operations in these two theaters were taken over by the OKW direct. Later on, in the course of the war, after the beginning of the Russian campaign, the Balkan area was also taken away from the authority of the OKH, and also the entire west, so that practically from 1941 the OKH was limited to the eastern theater of war.

Q. Who was the commander in chief of the German Army at the outbreak of World War II?

A. Field Marshal von Brauchitsch.

Q. And how long did he remain in that position?

A. Until 18 December 1941.

Q. And who succeeded him at that time?

A. Hitler personally then took over the supreme command of the army.

Q. And who was Field Marshal Brauchitsch's chief of staff at the outbreak of the war?

A. That was General of Artillery Halder, until the fall of 1942. He was succeeded by General of Infantry Zeitzler, and, after 20 July, he in turn was succeeded by Guderian.

Q. Did the functions of the OKW and the functions of the OKH overlap after 22 June 1941?

A. They overlapped to an ever-increasing extent; above all, after Hitler himself took over the supreme command of the army.

Q. Are there any offices known to you which simultaneously took care of common requirements both for the OKH and the OKW during the greater part of the war?

A. The most typical example for this is the Generalquartiermeister in his field of work, who as Generalquartiermeister of the army had to supply the OKH theater in the east, and likewise at the same time had to supply the OKW theaters of operation. A further example is the chief of the transportation service, who at the same time had to direct the transport for the army and the other armed forces. Then we had the chief of the army communications service, who had to deal with the communication requirements of the army as well as with those of the rest of the armed forces.

Q. Can you tell me in a very few sentences the main functions of the Generalquartiermeister during the war.

A. The Generalquartiermeister had two main tasks. This was firstly the supply for the army; that is to say, supplying the army with all necessary ordnance equipment, weapons, ammunition; and so on; secondly, he also had to work for military administration, that is to say, the administration of the occupied territories.

Q. If I understood you correctly he was utilized by both the OKH and the OKW in carrying out that task?

A. As an example in this connection I would like to say that he had an absolutely double subordination. He was doubly subordinate insofar as he was responsible to the chief of the general staff for supplying the theaters of operations of the OKH, and he had to handle these matters for the theaters of operations of the OKW according to the instructions which he received from the OKW. In the field of military administration these questions overlapped to a considerable extent because after Field Marshal von Brauchitsch left, military administration as such was handled by Field Marshal Keitel, and he [the Generalquartiermeister] was subordinate to Field Marshal Keitel in this work—and I must state here that he was not subordinated to Keitel as chief of the OKW, but as the representative of the now defunct OKH, because when Field Marshal von Brauchitsch left this work was probably divided up. In part was turned over to the Chief of the General Staff of the Army where operations were concerned, and in part Hitler himself took it over, as far as the personnel office was concerned; Hitler transferred part of this work to Field Marshal Keitel, because the entire field of work of the Replacement Army, and questions of military administration came under Keitel at the time. Thus it becomes evident that the Generalquartiermeister during wartime was subordinated to various people, and the longer the war lasted the more complicated and confused this subordination became.

Q. Now, where in the OKW would the Generalquartiermeister usually report to, or receive information and directives of interest to him—and also I would like to get that answer as far as the OKH is concerned?

A. I can give you certain information here where the field of operations is concerned, because I myself was always an operations man and can give you information only about this field. Here the High Command of the Army, that is the chief of the general staff, received orders and instructions from Hitler, and Hitler used the armed forces operations staff for the formulation and writing of these orders and instructions.

Q. Go ahead, Witness.

A. I have completed my answer.

Q. I have no further questions at this time, Your Honor.

PRESIDING JUDGE YOUNG: Any cross-examinations?

CROSS-EXAMINATION

DR. LEVERKUEHN (counsel for the defendant Warlimont): Witness, you testified that you were chief of the operations section in the general staff and you named a number of departments which were parallel to this department so to speak. Now, were there any other departments of that sort within the High Command of the Army outside of the general staff? You spoke of some other offices—the personnel office, the general administrative office.

WITNESS HEUSINGER: These offices were also subdivided into departments just like the troops department or the general staff.

Q. And as head of such a department, had you a certain command authority—first of all, had you a certain disciplinary power?

A. The disciplinary authority consisted wholly in a disciplinary authority over the subordinates in the department; that is to say, over my officers, and not over the enlisted men, only over the officers.

Q. What rank would that amount to in a regiment? A department in the general staff would correspond to what rank in a regiment?

A. It would correspond to the peacetime position of a regimental commander.

Q. Did that change during the war?

A. The disciplinary powers, as far as I know, did not change.

Q. Well, he might be promoted during the war.

A. That is out of my sphere; it would have depended on the so-called mobilization of the personnel office.

Q. You stated that in your position as department head you carried out orders, or you compiled orders, which you had received from the Oberquartiermeister or the chief of the general staff, who were your superiors? To what extent did you yourself have the authority to sign orders?

A. I did not have any authority to sign orders which were issued to the subordinate levels of the army. The orders which went out from my department had to bear the signature of the chief of the general staff to whom I submitted them for signature.

Q. Therefore, you did not hold a rank equivalent to a regimental commander, otherwise you could have issued order to your battalion commander or company commander.

A. The only persons to whom I could give orders were the 20-24 officers and the 80-100 enlisted men in my department. These people I could give orders to.

Q. You stated that you used to submit for signature, what you had worked out. To a certain extent you probably were allowed to sign things "for," or "by order of"?

A. Generally these things were sent out with the signature, "Halder, Chief of the General Staff, certified correct." Things which were not fundamental and not decisive I could of course sign, "by order of", but, as I say, I could not do so in fundamental matters.

Q. Then, was it really so that you never signed on your own responsibility but only on behalf of someone?

A. Yes, I only signed for someone, and not on my own responsibility.

Q. Was that a general principle in the German military organization?

A. Yes. In the general staff that was the case.

Q. I am now coming to another point which has already been mentioned in your testimony. After von Blomberg left another organization was put into effect and the OKW was established. I believe that your testimony might lead to wrong conclusions, insofar as you said that what up to that time had been the Reich War Ministry, then became the OKW. That cannot be correct?

A. I expressed myself very cautiously before because I am not informed about the legal relationship between the Reich War Ministry and the OKW. I only know about this in a general way.

Q. There is only one further point which I would like you to clarify. In the course of this reorganization the Department for National Defense arose within the OKW as a new office?

A. Yes.

Q. You know that?

A. Yes.

Q. When this Department for National Defense in the OKW was established, as a result of this, did anything change in the operational department? In order to make it easier for you to answer the question, I will put it a little differently: Did the Depart-

ment for National Defense take something away from you so to speak, or did your activity and authority remain the same?

A. My authority and activities—I would like to put this correctly. At that time I was not the head of the department, but I was Ia. The authority of the chief of the operations department remained the same, because he also had to work on things for the army, the operational questions.

Q. With regard to the question of signatures, may I ask you something else? Were several forms used such as, “By Order” [“im Auftrag”], or “By Command” [“auf Befehl”], or was it always “By Order”?

A. That is a very difficult question. You would have to ask somebody who had compiled the regulation concerning correspondence. I only know that as a battalion adjutant I used to sign, “By Command of”. Then later, as a general staff officer, I did not use that term any longer, but signed, “By Order”.

Q. Therefore, you can say that in the higher posts generally “By Order” was used?

A. Yes, I believe that is correct.

Q. After the outbreak of the war did you frequently have any connections with the Department for National Defense?

A. I had to do with the Department for National Defense until Hitler took over the leadership of the army. From that time on questions which had to be discussed within the armed forces were generally discussed with Hitler directly at the daily situation conferences, and from then on the immediate contact between the operations department of the army and the armed forces operations staff became less, because the questions discussed were generally settled in the course of the various conferences.

Q. Consequently the departments of the general staff of the army worked on operational tasks, and the Department for National Defense was a department belonging to the staff?

A. That is what it should have been like. As a result of the OKW itself taking over theaters of operations, it all became confused. It was supposed to be like this: We—the Operations Department of the Army—were to receive instructions from the Armed Forces Operations Staff as to what steps should be taken, and we were to examine how this could be done. That also remained so with regard to the eastern theater of operations. In the other theaters of operations, the Armed Forces Operations Staff itself took over the direction of operations.

* * * * *

Q. Corresponding to the table of organization which you described in regard to the OKH, was there a parallel organization in the OKW? Starting from the section for national defense—that would be your counterpart—the counterpart of your Oberquartiermeister would be chief of the Armed Forces Operations Staff; and then in the OKW we have only one other office and one person, Field Marshal Keitel. Is that correct?

A. Yes. That is correct, on paper. In the operational field, however, things developed in such a way that Field Marshal Keitel excluded himself to a very considerable extent from that field, and in the operational field—I emphasize, operational field—the task of advising Hitler descended on the Chief of the Armed Forces Operations Staff.

Q. You have just used the expression “descended”. As I understood you, you meant that ironically.

A. In this connection I would like to state the following briefly: Originally the leadership within the German Armed Forces was so intended that the OKW, being over the three branches of the armed forces was to issue instructions in general for war operations. The commanders in chief of the branches of the armed forces, however, according to these OKW instructions—I repeat instructions, they were not orders—had to issue directives for the execution of these instructions. This procedure which originally had existed, and which was also adhered to during the Polish campaign, was dropped later on as a result of the fact that the OKW itself took over the operational leadership in the various theaters of war, beginning with Norway and Africa, and later on France and Holland. As a result of this the OKW descended in these theaters of war to the level which actually was intended for a high command of a branch of the armed forces; and to this extent the original status of the OKW, as the authority which issued instructions in strategic matters, was departed from, and, as I said, the OKW descended to the level of an armed forces’ high command in these theaters of war. That is what I meant by my words on Friday.

Q. You then spoke about the assumption of the command of the army by Hitler in December 1941. Other changes were then effected, and the relationship between the OKW and OKH was described by you as overlapping, if I remember correctly?

A. An overlapping of functions occurred in a number of cases. This happened increasingly towards the end of the war.

Q. If you want to put it very bluntly, would you describe this state as overlapping or as rivalry?

A. One can use both terms. In some fields there actually was some rivalry. In other fields it was just an overlapping of tasks. To cite an instance of rivalry: When five new divisions were set up at home, and the chief of the general staff of the army on the one hand, and the chief of the armed forces operations staff on the other hand, struggled to obtain these divisions because each one wanted them for his forces, you have a case of rivalry.

* * * * *

DR. LATERNSEER (counsel for the defendant von Leeb) : General, you spoke about the organization of the OKH. What troop units were subordinated to the OKH?

WITNESS HEUSINGER: May I ask whether you refer to peacetime or wartime?

Q. In peace and war.

A. In peacetime, the German Army was subordinated to the OKH. It was divided into army group commands, corps commands, and divisions.

Q. General, you didn't get the gist of my question. What I mean is, what sort of troop units were subordinated to the OKH—army, air force, navy?

A. Only the army formations.

Q. To whom was the Waffen SS subordinated?

A. The Waffen SS was only established later on, and it was subordinated to Reich Leader SS Himmler.

Q. Reich Leader SS is not a rank or office within the armed forces, is it?

A. No.

Q. To whom were the so-called Einsatzkommandos of the Security Police and Security Service subordinated?

A. I cannot give any binding answer to that question because it did not pertain to my field of work.

Q. On the basis of your work in the OKH, do you know whether elements of the army were attached to the Einsatzkommandos of the Security Police and Security Service?

MR. RAPP: I object, Your Honor, the witness already told us he is not competent to answer this question. Now if Dr. Laternseer tries to come in at the back door, we are just delaying time. He already said he doesn't know.

DR. LATERNSEER: Your Honor, these are two completely different matters. In the first question I asked the witness about subordination. Now I am asking him about the composition of the armies. These are two different subjects, and not the same thing at the back door, as the prosecution says.

PRESIDING JUDGE YOUNG: The objection will be overruled at this time.

DR. LATERNSEER: Can you answer the question, General, which I have just asked? I asked you whether, as a result of your work in the OKH, you knew, or you know, whether army units were detailed to work with the Einsatzkommandos of the Security Police and Security Service.

WITNESS HEUSINGER: The Security Police and the SD?

Q. Yes. Don't you know anything about that?

A. In fighting the partisans I believe that army units, when the occasion arose, may have been thus attached.

Q. Apparently you are not precisely informed about that, and we will drop this point. I now have a few other questions. Where are you located at present, General?

A. I have been released from imprisonment, and at present I am at Neustadt, near Marburg.

Q. Are you interned there?

A. No. No longer.

Q. You are here of your own volition?

A. Yes.

Q. I have another question. When you arrived here at Nuernberg did the prosecution prohibit you from talking to the defense?

A. No. They did not.

Q. Do you know of any cases where this has happened?

A. I know nothing about that.

Q. I have no further questions, Your Honor.

DR. GRUENWALD (counsel for the defendant Lehmann): Witness, you previously mentioned the OKW as a command authority. Is this, strictly speaking, correct?

WITNESS HEUSINGER: I spoke about the OKW as a command authority because, in my work, it was only possible for me to survey this particular sector. I was only connected with the OKW in its capacity as a command authority.

Q. What I mean, is this: Who headed the OKW as an office?

A. Hitler was at the head, and Keitel was the chief of the OKW.

Q. Keitel was the chief of OKW. Who headed the OKH?

A. The Commander in Chief of the Army? First of all, von Brauchitsch, and later on Hitler himself.

Q. Does the Commander in Chief of the Army count as a member of the OKH in your opinion?

A. The OKH is his staff, presided over by him.

Q. And how would the same situation be in the OKW? What would correspond to it?

A. The OKW was Hitler's staff, at the head of which as chief of staff was General Keitel, but he was subordinate to Hitler.

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EXAMINATION

JUDGE HARDING: I have a question. I think you testified that the Waffen SS was under the Reich Leader SS?

WITNESS HEUSINGER: Yes. I did.

Q. When these Waffen SS divisions were formed during the latter part of the war, and became part of the various armies that were operating at that time, under whose command were they at that time?

A. Then in tactical respects, they were subordinated to the commands in whose areas they were engaged in combat. In other fields, that is to say, as far as I know, for example, in judicial matters, they remained under the jurisdiction of the Reich Leader SS. Therefore, in this case these units were subordinated to two authorities.

JUDGE HALE: I would like to ask the witness this: To what extent did General Warlimont have power to indicate, to initiate matters pertaining to general policy?

WITNESS HEUSINGER: I can only judge of the activity of General Warlimont in the operational sector, and that from the year 1941; and here I can only say that according to what I have seen in the operational sector, the chief of the Armed Forces Operations Staff, General Jodl, would himself report to Hitler on all important matters, and General Warlimont in the operational field, according to the impression I gained, for the most part only compiled and issued the orders which had been given to him by the chief of the Armed Forces Operations Staff. I want to em-

phasize that I am limiting my testimony to the operational sector, and to the time from 1941 on.

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RE-DIRECT EXAMINATION

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MR. RAPP: Witness, you were asked a few points regarding the Waffen SS. Do you know from what year, beginning what year, Waffen SS units were employed during the war at the front?

WITNESS HEUSINGER: As far as I know, in the Polish campaign only individual regiments were concerned, the so-called, "Leibstandarte" [Bodyguard], and then a, "Germania" regiment, and a, "Deutschland" regiment. However, at that time these formations did not reach the size of a division. I believe that came only after the campaign in France; however, I can't say so for certain.

Q. Witness, do you know any other SS formations besides the so-called Waffen SS?

DR. LATERNSENER: I object. We have not spoken of any other SS units than the Waffen SS. Consequently the prosecutor in this case must limit himself to asking about the Waffen SS. I therefore object to the question.

MR. RAPP: I am sorry; Dr. Laternser only put two questions to the witness, one pertaining to the SS and the other to the SD [Security Service] and on one of the questions he was not overruled. I must ascertain the knowledge of the witness that came up during the cross-examination. I think the question is entirely proper.

DR. LATERNSENER: Your Honor, I did not ask about the SS, but I spoke about the Security Police and Security Service, and about the Waffen SS. Now, the prosecutor is referring to SS other than the Waffen SS. This was not discussed in cross-examination. This question should not be asked at this time.

PRESIDING JUDGE YOUNG: The objection is overruled.

MR. RAPP: You can answer the question, Witness.

WITNESS HEUSINGER: In my activity in the operational sector I only had to deal with units of the Waffen SS, and I only saw units of the Waffen SS in this field; but there were still other units.

Q. Witness, do you say that the Waffen SS units were not a part of the German Armed Forces?

A. They were a part of the German fighting forces as such, but they were not part of the German Armed Forces, because they, as before, consisted of the army, the air force, the navy. Of course, the Waffen SS also was a part of the fighting forces. I believe that is the way we have to look at the matter.

Q. In other words, in your approximate six years of service in the OKH, you had not been able to ascertain to the best of your knowledge that the Waffen SS was a part of the armed forces?

A. I don't believe that one can express it that way, because the Waffen SS, as far as I know in any case, was not subordinate to the OKW.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS FRANZ HALDER*, CONCERNING THE RELATION BETWEEN THE WAFFEN SS AND THE GERMAN ARMED FORCES

DIRECT EXAMINATION

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DR. LATERNSENER (counsel for the defendant von Leeb): Which military agencies were immediately subordinated to Hitler's orders?

WITNESS HALDER: Of the military agencies the following were under Hitler's immediate authority: the commands of the three branches of the Wehrmacht, army, air force, and navy.

Q. How about the Waffen SS,—what I want to know, is that a branch of the armed forces?

A. No. The Waffen SS was not a branch of the armed forces.

Q. Why not?

A. The branches of the Wehrmacht received their orders from Hitler as Supreme Commander of the Armed Forces. These orders were channeled via the OKW. The Waffen SS, however, had no connection whatsoever with the OKW, but was instead subordinated to Hitler as a Party organization.

Q. In the SS hierarchy, who was immediately under Hitler's command?

A. I didn't quite understand you.

Q. I repeat my question, who was under Hitler in the Waffen SS hierarchy?

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948, pp. 1817-1864; 1867-2155.

A. The so-called Reich Leader SS, Himmler.

Q. Now, what regulations applied to the Waffen SS when it was militarily employed in action?

A. For tactical purposes the Waffen SS was subordinate to the troop commanders of the army. That applies to commitment in battle, supply, etc.

Q. I would like to clarify it a little further. What do you mean by tactical subordination?

A. Tactical subordination means that the subordinated party with regard to commitment in combat and all problems in connection with this combat, that is, movement, supply, communication, etc., is subordinate to another military agency and has to adhere to its orders.

Q. To bring it to a simple denominator, tactical subordination refers to actions in combat, to battle?

A. Also to movements and marches, but everything that is connected with battles.

Q. To whom was the Waffen SS subordinate when militarily employed regarding questions of jurisdiction?

A. They had their own judiciaries.

Q. What kind of courts carried out this activity?

A. That is a question which I cannot answer in detail. The supreme judiciary was Himmler.

Q. What kind of courts were these?

A. SS courts, of course.

Q. Now, how about the subordination of the Waffen SS in personnel matters?

A. Concerning personnel matters, the Waffen SS was purely subordinated to its own SS agencies.

Q. Could an officer of the Wehrmacht, for instance, punish an SS man, if this became necessary?

A. No.

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TRANSLATION OF DOCUMENT VON ROQUES I
VON ROQUES DEFENSE EXHIBIT I

FUEHRER'S BASIC ORDER ON SECRECY, 25 SEPTEMBER 1941

[State Seal]

The Fuehrer and Reich Chancellor

Fuehrer Headquarters
25 September 1941

BASIC ORDER

1. No one: No office, no official, no employee and no worker may become acquainted with any matter which is to be kept secret if they do not have to be absolutely informed of this for official reasons.

2. No office, no official, no employee and no worker may learn more of any matter which is to be kept secret, than is absolutely necessary for them to know for the accomplishment of their task.

3. No office, no official, no employee and no worker may become earlier acquainted with a matter which is to be kept secret, or with the part necessary for them to know, than is absolutely necessary for the accomplishment of their task.

4. The thoughtless passing on of decrees, directives and information, the secret treatment of which is of decisive importance, in particular according to some general schedule of distribution, is prohibited.

[Signed] ADOLF HITLER

EXTRACTS FROM THE TESTIMONY OF DEFENDANT LEHMANN*

DIRECT EXAMINATION

* * * * *

DEFENDANT LEHMANN: * * *. The field marshal [Keitel] himself was fanatical about secrecy. He exaggerated it to such an extent that in the opinion of all the chiefs in the OKW it was definitely bad for all official business to be transacted. The Tribunal listened to an example of this kind the other day—I listened to it with absolute disgust. That was when the witness, Professor Handloser, testified here that he, as chief of the armed forces medical corps, on the eve of the war with Russia, was in hospitals in Belgium or France without having any knowledge of the event to come. That is one of the examples which show that the Fuehrer, as well as Field Marshal Keitel, followed a principle which in itself is a very healthy one, and really exaggerated it in an intolerable and foolish manner. Therefore, I as chief of the legal department obviously learned very little.

DR. VON KELLER (counsel for defendant Lehmann): What was the purpose of all this secrecy. Can you tell us about that?

* Complete testimony is recorded in mimeographed transcript, 15, 16, 19, 20, 26, 27 July 1948; pp. 7909-8180, 8481-8582.

A. The purpose of this secrecy, first of all, at least in the way we saw it at the time, was to safeguard against gossip and treachery. If such a purpose could have been reached in a more reasonable way, then, of course, it was quite a good thing. One could approve of it. However, since the end of the war I have come to the conclusion that those secrecy measures also had other reasons, and they were mostly political ones.

* * * * *

DEFENDANT LEHMANN: I had stated that the first recognizable purpose of those secrecy provisions was, as far as we were concerned, a guarantee against military treason. Now, however, we have learned to realize that those secrecy provisions had other purposes, purposes of a political nature. The dictatorship had to depend upon remaining in power through the application of a number of means: one of such means was the incitement of jealousy among others,—the old proverb, “*divide et impera*” is a proverb which is adhered to by every dictatorship. In the armed forces this rule was also adhered to with great skill and incited the natural jealousy among the branches of the armed forces, and this was exploited by Hitler. This means was applied in the relationship between the armed forces and the Waffen SS. It was also used in the relationship between the Party and the State according to the governing rule which has now been forgotten in Nuernberg, namely, “The Party orders the State.” That is a sentence which has been forgotten in Nuernberg and outside Nuernberg.

That was one of the means, and the other one was the secrecy rule. The departments and the various sections within the ministries were systematically sealed off against each other. A real “bulkhead system” was installed. Walls were built up all over the ship which—to keep to the simile—were to protect the ship against flooding. This was to insure that a secret did not go beyond those circles which were directly concerned with it. We know now that, in this way, we were kept apart and isolated in order not to be informed of certain things. I believe that this is one of the most important keys and an explanation for the whole development. I can well envisage that judges from a country, the very nature of which is utmost publicity, find it really a puzzle as to how this all developed in Germany. In this respect Hitler was a true master of tactics. He exploited certain German characteristics which facilitated this secrecy system. Part of this is one German characteristic which is not a good one, an unusual sensitivity towards criticism. For a long time there has been in Germany resentment if an outsider critically deals with matters

which are the concern of another person. In a country with so much freedom of the press as the United States, such a thing is unheard of and cannot develop. During the last decades, however, nothing has changed in this respect in Germany. This resentment of criticism is a characteristic which existed long before the Third Reich. Hitler merely exploited it. If matters remained a secret, nobody could criticize them. At any rate, there was no chance of a freedom of the press, and the secrecy provisions, therefore, in some respects had the same effect as this characteristic of ours. What the political leadership wanted to achieve with this, we know now. Certain matters were not to come to our knowledge, and this was carried out with the utmost strictness. I can well imagine that the Court does not consider Hitler's secrecy order anything particularly strange because in every country there are secrecy provisions for military matters. That in itself is no German invention, but it was Hitler's method to enforce this order with the utmost force, force that entailed real bodily violence. I am in a position to judge this because I know a number of trials in which this question played a certain part. Of course, in the United States Army there also is a secrecy order, but in other countries no general would be indicted with the aim of having him sentenced to death, if in a corps order to the divisions he passed on prohibited information concerning the operational mission for the neighboring corps. That is a case which we had. In 1942 a general with many merits, General of the Panzer Troops, Stumme, was indicted for this very reason. He had issued a corps order which most certainly violated the government regulations. Before the offensive directed against Voronezh. This order contained statements as to the operational objectives of the neighboring corps, which certainly were not to come to the knowledge of the divisions. Through an unfortunate accident, this order fell into the hands of the Russians. This became known to Hitler, he ordered proceedings to be initiated against this general, and wanted him to be sentenced to death. Fortunately, it did not happen in this way; it ended, with Goering presiding in the confinement of the general to a fortress. But this case alone shows how serious the position was, and, after all, this was not an isolated case.

An excellent young general staff officer, for instance, a Major von Rumohr, was indicted by order of the Fuehrer because in an order he had written more than he was permitted to write. This order also happened to fall into the hands of the Russians. The major was sentenced to death. The adjutant of the Fuehrer, Schmundt and I spent weeks and months to get this verdict to be mitigated and the major to be pardoned. As I said, there is a

difference between prohibiting something such as careless talk, or enforcing it through means as I have just described. Since the question of secrecy plays such an important part in this trial, I took the liberty of illustrating it for the information of the Court. I could mention other examples which are minor matters compared with what I just related, but in spite of this minor nature, are still significant.

In the ministries of Berlin it was the custom for the State Secretaries, that is, the representatives of the Ministers, to meet once or twice during the month in the evening for a glass of wine and to discuss, by way of conversation, matters of mutual concern. This custom was forbidden by the Fuehrer. He said it could easily lead to an exchange of opinion which was not permissible, —although these men were the highest officials in the Reich next to the ministers, who really ought to have had a meeting at least once a week in a normal State, in order to discuss matters of mutual interest and the situation of the State.

But these are the very things which Hitler did not want to happen. Persons were to be isolated and kept separate from each other. The result of this method was that everybody had to restrict himself to his normal field of work, and I have to concede that even in this smaller, narrower field of work there was plenty of unpleasantness. But even if one had the physical or the psychological strength to concern oneself with other matters as well, one would have encountered these insurmountable walls. These walls existed. They are not an invention of the defendants for their defense. They are one of the basic foundations of the Third Reich.

In the OKW the situation was not very much different. During peacetime Keitel held brief daily situation conferences. I did not attend these conferences. At the beginning of the war a discussion of the military events in the Armed Forces Operations Staff was introduced. General Warlimont described this procedure, but I believe he remembers the procedure better than I do. The men in my department didn't go to the conferences any longer because they said, "The armed forces communique can be read by us at home in the papers," and there was no information beyond that, divulged during the conference. There was no serious discussion of the situation either because that was not permitted anyway. The general had his orders and he adhered to them. Other military discussions were not held in our presence.

I had a considerably high rank and was on good relations with the other chiefs, but I wasn't even permitted to be shown a military situation map. If occasionally Field Marshal Keitel's adjutants, with whom I had quite a lot to do, had not shown me a

situation map, although that was forbidden, I would not have seen a single one through the whole of the war. This is a state of affairs which, beyond a doubt, is not normal, and it had the same effect from various directions. One was not informed of the political matters either. We did not receive police reports. As a matter of fact we didn't receive anything at all.

At the beginning of the war I was permitted, with a special written permission, to listen to foreign broadcasts. This permission was withdrawn later on. Thereafter, I never listened to foreign broadcasts because there was a danger of severe punishment, and it was impossible to expose oneself to such a danger. All these factors led to this isolation which was an essential part of the government's system.

* * * * *

TRANSLATION OF DOCUMENT VON KUECHLER 60
VON KUECHLER DEFENSE EXHIBIT 60

HITLER ORDER, 29 JUNE 1941, CONCERNING THE CONTROL OF
ECONOMY IN THE NEWLY OCCUPIED EASTERN TERRITORIES

* * * * *

(Green File)
Part II (3d edition)
Supplementary Material to Part I

Berlin, September 1942

Printed by Erich Zander Printers and Publishers, Berlin SW 29

1st Chapter

Basic decrees concerning the administration of the newly occupied Eastern Territories and the introduction of civil administration.

A. Fuehrer decree concerning the economy in the
newly occupied Eastern Territories, dated 29 June 1941

1. Within the newly occupied Eastern Territories, Reich Marshal Hermann Goering as Plenipotentiary for the Four Year Plan decrees within the limits of his due competencies all measures necessary for the most intensive utilization of the available supplies and economic sources for the benefit of the German war economy.

2. *For this purpose he may also give instructions directly to the armed forces agencies in the Occupied Eastern Territories.*

3. This decree becomes effective this day. It shall be published upon special order.

Fuehrer Headquarters, 29 June 1941

The Fuehrer
[Signed] ADOLF HITLER

The Chief of the High Command of the Armed Forces
[Signed] KEITEL

The Reich Minister and Chief of the Reich Chancellery
[Signed] DR. LAMMERS

TRANSLATION OF DOCUMENT VON KUECHLER 61
VON KUECHLER DEFENSE EXHIBIT 61

AFFIDAVIT OF HANS STEENBOCK*, 26 MAY 1948

I, Hans Steenbock, retired commodore, born on 8 December 1894, at Burg (Fehmarn), residing at Bad Harzburg, Wiesenstrasse (Holzhaus), having been duly warned that I make myself liable to punishment if I render a false affidavit, declare under oath that my statement is true and was made in order to be submitted as evidence before Military Tribunal V A in the Palace of Justice, Nuernberg, Germany.

At the beginning of World War II, I was armament commander in Essen and, while retaining this position, I was sent in August 1942, to Stalino on temporary duty as chief of staff of the Economic Inspectorate South and as special commissioner for mining, power, and smelting industries. I, therefore, have a thorough knowledge of the organization of the Reich economic offices established in Russia and of their contact with the armed forces.

I. Regulation within the area of the armies

In June 1941, the OKW issued the, "directives for the control of economy in the newly occupied eastern territories" (so-called "green file") (1743-PS, Pros. Ex. 553). These meant a *complete reversal* of the regulations concerning the authority of command in the occupied territories valid up to then for the armed forces. According to the existing regulations, the commander in chief of an army had the sole executive power in the area under his command. Under his command the Oberquartiermeister controlled economy within the occupied territory together with the administrative officer of the army.

With regard to the eastern theater of war, the entire field of economy and thus to all intents and purposes the overwhelming

* Affiant was not called as a witness by prosecution or defense.

part of the life of the civilian population was thus withdrawn from the executive power of the commander in chief of the army. The entire uniform economic control in the operational area was transferred to an especially established, "Economic Control Staff East", which was directly subordinated to Reich Marshal Goering as Plenipotentiary for the Four Year Plan and State Secretary Koerner as his deputy. Goering's directives covered *all* fields of economy including food and agriculture (*cf. page 6 of the "Green File", Doc. 1743-PS*).

The Economic Control Staff East, as a so-called Supreme Reich Authority on the same level as a Reich Ministry, gave its directives for allocation and control to the Economic Staff East. In order to be able to utilize the military communication system, the Economic Staff East chose its official headquarters in the vicinity of the Generalquartiermeister of the army. Moreover, the Economic Staff East had established its own economic organization in the operational area. With the *army commanders in chief* there was a liaison officer of the office for economy and armament (IV economy), later called army economic leader; with the Feldkommandanturen advance into the army areas, was a, "group IV economy", and, likewise, if necessary economic detachments.

In August 1942, the economic inspectorates were transferred to the headquarters of the army group commands, if possible.

All economic offices were subordinated in *military respects* to the corresponding command agency in the same location as their office. This meant that the command agency concerned merely had to find accommodation for the economic office as necessitated by the prevailing tactical situation. Only to this extent were the economic offices in turn subordinated to the military orders. The military command agencies had no influence whatever on the *technical-economic* work. The commander in chief or the person in charge of the military command agency thus could merely advise or make a suggestion to the chief of the economic office who in general was his junior in service. There was no possibility for him to give his suggestion the form of an order, if the head of the economic office contradicted him or if directives from superior economic offices opposed his desires.

II. Regulation within the area of the army groups

The commanders in chief of the army groups were never the bearers of executive power within their areas. This was always held and continued to be held—insofar as it still existed at all—by the *army commanders in chief*. The economic chief was never on the staff of the army group. Therefore, there were no economic offices either with the organization of an army group command or army command. If such offices are, in one case or the other, men-

tioned as affiliated or are listed with the corresponding military special fields, possibly with the note, "in cooperation with * * *", then this only means that a geographical consolidation is involved.

Insofar as the economic chief regarded it as expedient, he had the opportunity of informing the commander in chief. As a rule this happened if he wished to ensure the assistance of the commander in chief. The activity of the economic office was regarded by the troops as annoying because they considered the economic organization a foreign body. For this reason the orders issued by the economic offices were frequently disregarded by the troops. The troops only responded to the orders of their military commanders. Therefore the economic office requested the commander in chief involved to instruct the troops that they should not disrupt the work of the economic offices. Economic orders thus issued by the commanders in chief of the army groups or armies, therefore were *not concerned with the special activity of the economic offices but were intrinsically orders concerning disciplinary matters, exclusively directed to the troops*. In particular they did not regulate the economic life of the population.

In summarizing I can thus testify that the entire field of economic control in the eastern theaters of war was withdrawn from the executive power of the commanders in chief of the army groups as well as of the commanders in chief of the armies.
Nuernberg, 26 May 1948

[Signed] HANS STEENBOCK

V. CRIMES AGAINST PEACE—FURTHER SELECTIONS FROM THE ARGUMENTATION ON THE CHARGES OF AGGRESSIVE WAR

A. Introduction

In count one of the indictment all the defendants were charged with participation in the initiation of invasions of other countries and in the planning, preparation, initiation, and waging of wars of aggression, and wars in violation of international treaties, agreements, and assurances. In count four all the defendants were charged with participation in the formulation and execution of a common plan, a conspiracy to commit crimes against peace. Both these counts were dismissed as to all defendants by the Tribunal in its final judgment.

During the time when the invasions and wars in question were prepared and carried out, the defendants held various command or staff positions in the German Armed Forces. *Four* of the defendants were assigned to central military agencies. The defendant Warlimont became Chief of the Department National Defense in the High Command of the Armed Forces (OKW) in November 1938. On 1 January 1942, the office chief of the Department National Defense was renamed Deputy Chief of the WFSt (Armed Forces Operations Staff). Defendant Reinecke was in charge of the General Armed Forces Office (AWA) of the OKW from 1939 to 1945. Defendant Lehmann was Chief of the Legal Department (WR) of the Armed Forces High Command from 1938 to 1945. Defendant Schniewind was Chief of the Naval Command Office and at the same time Chief of Staff of the Naval War Staff (SkI) in the High Command of the Navy (OKM) from fall of 1938, to May 1941. The other nine defendants were commanders or chiefs of staff of army groups, air fleets, army corps, or divisions.

Though the indictment charges all the defendants with participation in crimes against peace, not all of them were charged with criminal responsibility for participation in each of the invasions and aggressive wars. Only the defendants Schniewind, Reinecke, Warlimont, and Lehmann were charged with responsibility in the attack against Denmark and Norway (par. 16 of the indictment), and only the defendants Reinhardt, Hollidt, Schniewind, Reinecke, Warlimont, and Lehmann were charged with criminal participation in the attack against Greece and

Yugoslavia (par. 30 of the indictment). The defendants von Roques and Woehler were charged only with participation in the attack against the U.S.S.R. (par. 41 of the indictment). Count one of the indictment (crimes against peace) expressly, "incorporated", by reference the acts and conduct set forth specifically under counts two and three (war crimes and crimes against humanity), alleging that these acts and conduct were included in, "the participation of the defendants in the planning, initiation, and waging of wars of aggression and invasions of other countries", and were, "committed as an integral part" of aggression (par. 43).

Just as the Allies had code names for projected operations (e.g., "Overlord," "Torch") so did the Germans. The following table shows the dates of initiation of the principal military operations and the code names under which they were planned by the German Armed Forces:

<i>Country Concerned</i>	<i>Date of Initiation of Invasion</i>	<i>Code Name</i>
Austria	12 March 1938	Case Otto
Czechoslovakia	1 October 1938	
	15 March 1939	Case Green
Poland	1 September 1939	Case White
Denmark & Norway	9 April 1940	Weser Exercise
Belgium, Netherlands & Luxembourg	10 May 1940	Case Yellow
Greece	6 April 1941	Case Marita
Yugoslavia	6 April 1941	Case 25
U.S.S.R.	22 June 1941	Case Barbarossa
United States of America	11 December 1941	None

Substantial argument concerning the charges of aggressive war has already been reproduced above in the selections from the opening statements of the prosecution and defense (sec. III). In view of the long period of history and the complicated issues involved in the aggressive war charges, it has been thought advisable to include further argumentation from the closing statements of both the prosecution and defense (sec. V B) before the selections from the evidence (sec. VI).

B. Selection from the Closing Statements of the Prosecution and the Defense

I. EXTRACT FROM THE CLOSING STATEMENT OF THE PROSECUTION*

* * * * *

* Complete closing statement is recorded in mimeographed transcript, 10 August 1948, pp. 9505-9620.

BRIGADIER GENERAL TAYLOR: We will deal first with the charges in counts one and four of the indictment relating to the crime against peace, which the International Military Tribunal described as, "the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole."¹ Similarly, Presiding Judge Anderson, in his concurring opinion in the Krupp case, declared, "that aggressive war is the supreme crime and no penalty is too severe for those who are responsible for it."² And Judge Wilkins, in his special concurring opinion³ in the same case, stated:

"The accusation to have committed a crime against peace is the gravest that can be raised against any individual. It transcends any other crime, as far as regards the sinister character of the criminal intent, the amount, magnitude, and duration of harm and evil which it necessarily involves and the disregard for the sufferings of persons and entire nations, including the wrongdoer's own fellow-citizens and own country."

The general principles to be applied in determining the guilt or innocence of the individual defendants in this case are principles well known and generally accepted in the penal law systems of civilized nations generally. The most elementary and basic principle is that criminal guilt always requires two elements—action and state of mind. Both are essential. The fact that a man thinks, desires, or concludes is not in itself criminal, no matter how vicious or depraved these thoughts, desires, or conclusions may be. Nor is an act, standing alone, ordinarily to be judged criminal, regardless of the actor's concomitant state of mind or knowledge.

That this basic principle is applicable in the field of international penal law, just as in domestic penal law, is abundantly apparent from the judgment of the International Military Tribunal and the judgments in the Farben and Krupp cases. Thus, with respect to the necessary element of, "action" or "participation," in the case before the IMT the defendant Kaltenbrunner was acquitted of the charge of planning and preparing aggressive war because the evidence against him was not thought to, "show his direct participation in any plan to wage such a war."⁴ The defendant von Schirach was acquitted of the same charge because, "it does not appear * * * that he participated in the planning or preparation of any of the wars of aggression."⁵ And the

¹ Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 186.

² United States *vs.* Alfred Krupp, et al., Case No. 10, vol. IX, Concurring Opinion of Judge Anderson.

³ *Ibid.*, Special Concurring Opinion of Judge Wilkins.

⁴ Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 291.

⁵ *Ibid.*, p. 318.

defendant Schacht was acquitted of part of the charge of conspiracy to wage aggressive war because, "his participation in the occupation of Austria and the Sudetenland * * * was on such a limited basis that it does not amount to participation in the common plan¹." With respect to the requirement of, "knowledge," or "state of mind," we find that the defendant Streicher was acquitted by the IMT because, "there is no evidence to prove that he had knowledge," of Hitler's plans.² The same is true of the defendants Fritzsche (for lack of any showing, "that he was informed of the decisions taken")³ and Bormann (for lack of a showing, "that Bormann knew of Hitler's plans to prepare, initiate, or wage aggressive wars").⁴ And, apart from Austria and the Sudetenland, the acquittal of Schacht was also expressly based on lack of knowledge⁵:

"The case against Schacht, therefore, depends on the inference that Schacht did in fact know of the Nazi aggressive plans * * *. The Tribunal has * * * come to the conclusion that this necessary inference has not been established beyond a reasonable doubt."

The Krupp and Farben judgments follow the IMT decision in importing into international penal law, with respect to crimes against peace, this dual requirement of participation and knowledge. Thus, in the Farben judgment, the IMT decision is construed as supporting a finding of guilt "only where the evidence of both knowledge and active participation was conclusive."⁶ Judge Anderson, in his concurring opinion in the Krupp judgment, expressed the principle as follows:⁷

"The requisite knowledge, I think, can be shown either by direct or circumstantial evidence * * *. Such knowledge being shown, it must be further established that the accused participated in the plan * * *."

Judge Wilkins' opinion is to the same effect.⁸ He said:

"The principles of criminal liability applicable with respect to the crime against peace are the same elementary and basic principles applicable generally with respect to other crimes. The basic principle is that criminal guilt requires two essential elements, namely, action constituting a participation in the crime, and criminal intent."

¹ *Ibid.*, p. 309.

² *Ibid.*, p. 302.

³ *Ibid.*, p. 337.

⁴ *Ibid.*, p. 339.

⁵ *Ibid.*, p. 310.

⁶ *United States vs. Carl Krauch, et al.*, Case No. 6, vols. VII and VIII.

⁷ *United States vs. Alfred Krupp, et al.*, Case No. 10, vol. IX, Concurring Opinion of Judge Anderson.

⁸ *Ibid.*, Special Concurring Opinion of Judge Wilkins.

The observance of these principles is especially important in connection with the charge of aggressive war. The concept of the crime against peace is of grave import to the world and every nation in it, and we must insure that the doctrine is neither extended beyond the bounds of reason, justice, and common sense, nor contracted into a meaningless legal stereotype. The elementary legal requirement that both participation and knowledge be clearly established is the best safeguard against killing off the concept of the crime against peace either by dropsy or malnutrition. It will benefit no one, least of all the prosecution, to urge a definition of the crime against peace which would sweep within its purview thousands of more or less ordinary men and women. The prosecution would be the last to suggest a rule which would incriminate the ordinary soldier whose participation in these gigantic ventures was infinitesimal, or anyone who lacked the intelligence or opportunity to realize the aggressive character of the wars of conquest launched by the Third Reich.

But by the same token we must not adopt a standard which would exculpate those whose participation and knowledge are clearly established. It is both unnecessary and impossible, and indeed it would be presumptuous, to attempt any ultimate detailed statement of what must be shown by way of participation and knowledge in order to establish guilt on the charge of committing crimes against peace. It is the very essence of, "customary," or "common" law, such as international penal law is, to bring about the refinement and perfection of legal concepts in application case by case. As to the requirement of, "participation," we suggest that it is necessary to establish substantial activity in a responsible capacity, directly connected with building up the power of a country to wage war, or with the actual waging of war. As to, "state of mind," we believe that there must be a showing of knowledge that military power would be used to carry out a policy of conquest by war or threat of war. When we speak of, "knowledge," we mean knowledge based on information of such amount and kind as must have brought conviction to a man in the position and circumstances of the defendant. We submit that these standards are as precise as general standards in the law can ever be, and that they are conservative in their scope.

We have stressed these legal requirements because we believe them fundamental to a wise and just application of the concept of crimes against peace. We think that the evidence in this case fully meets these requirements, and is more than adequate to establish guilt beyond a reasonable doubt. And it will greatly aggravate the risks to which civilization stands exposed—grave

indeed as they are now—if this concept is withered at the roots, by the exoneration of those who are truly guilty of this terrible crime.

I come now to count one and count four of the indictment in this case each of which embodies a charge of the commission of crimes against peace as defined in paragraph 1 (a) of Article II of Control Council Law No. 10. Count one charges the initiation of invasions and wars of aggression in violation of international law, including the planning, preparation, initiation, or waging of wars of aggression, or wars in violation of international agreements. Count four charges the defendants with participating in a common plan, or conspiracy for the accomplishment of the matters charged in count one. Count one of the indictment in this case corresponds, in general, to count two of the indictment before the International Military Tribunal; count four of the indictment in this case corresponds in general to count one of the indictment before the IMT. Count one of the indictment in this case corresponds to count one of the indictments in the Krupp and Farben cases, and count four of this indictment corresponds to count four in the Krupp case, and count five in the Farben case. The relation—involving both differences and similarities—between the charge of planning or waging aggressive wars on the one hand, and conspiracy to that end on the other hand, has been discussed, and touched on in the IMT, Krupp and Farben judgments, in numerous arguments before the Nuernberg Tribunals, and in many speeches and articles concerning the Nuernberg trials.

The classical definition of conspiracy in English common law is that it is a confederation to effect an unlawful object, or to effect a lawful object by unlawful means.* Within the scope of this definition, conspiracy is little more than an elaboration of the law of attempts, in cases where the conspiracy was unsuccessful in attaining its object, or of the law of principals, and accessories and accomplices, if the conspiracy succeeded in attaining an unlawful object. Within this sphere, the law of conspiracy is, in essence, merely another manifestation of the problem, common to all legal systems, of how closely or in what way an individual must be connected with a crime in order to render him criminally responsible.

It should be noted that the mention of, "conspiracy," in paragraph 1 (a) of Article II of Control Council Law No. 10 is not the only provision of Law No. 10 dealing with this question of the degree of connection with crime. Paragraph 2 of Article II is solely concerned with this same question and declares that a

* Wharton's Criminal Law (Rochester, N. Y., The Lawyers Co-operative Publishing Co., 1932), vol. II, 12th ed., p. 1843, and cases therein cited.

person is to be deemed guilty if he was a, "principal," or an "accessory," or was connected with the crime in certain other specific respects. This paragraph does not employ the word, "conspiracy," but its scope is, we suggest, at least as broad as that of the doctrine of conspiracy.

In dealing with the charge of conspiracy in count four of this indictment, therefore, we are dealing only with the question of what degree of connection with the crime against peace a defendant must be shown to have had in order to render him criminally liable. In this field, Anglo-Saxon jurisprudence uses the terminology of principals and accessories, accomplices and confederates, conspiracies and attempts. In other judicial systems, these words and other words are used. There are some differences between the various systems, but the basic purpose of these concepts is common to all systems.

The distinctions and subtleties which have been woven around the concepts of attempt, accessory, and conspirator in Anglo-Saxon law are somewhat refined and surely there is much overlapping, as has been pointed out in a leading text on Anglo-Saxon criminal law.¹ Judge Anderson, in his concurring opinion in the Krupp case, observed that:²

"Conspiracies differ from attempts only in that in the former it is not necessary that the act of the accused shall approach as near to the consummation of the criminal objective as in the latter and in conspiracy, as distinguished from attempt, two or more persons are necessarily involved."

Where, as in this case, many more than two persons are involved and the criminal objective was actually consummated, the distinction between criminal guilt as a conspirator, or as a principal, accessory, or confederate, becomes well-nigh imperceptible.

Is there, then, any real distinction between the charges in counts one and four of this indictment? Judge Anderson has expressed the view that the offense of, "conspiracy," is identical with the offense of, "planning, preparation, or initiation," of aggressive war, but that, "waging," is a distinct offense. As he put it:³

"As already pointed out, the IMT seems to have regarded the, 'planning, preparation, initiation, and waging' of aggressive wars as constituting two separate offenses, one consisting of the acts of, 'planning, preparation, and initiation', and the other of, 'waging', aggressive war. To repeat, the offense of

¹ Ibid., p. 1861.

² United States vs. Alfred Krupp, et al., Case No. 10, vol. IX, Concurring Opinion of Judge Anderson.

³ Ibid.

planning, preparation, and initiation of aggressive wars is, in practical effect, the same as the conspiracy.”

Very likely Judge Anderson was led to this conclusion by the circumstance that the IMT acquitted the defendant Doenitz of conspiracy to wage aggressive wars, and expressly found that he did not plan, prepare, or initiate such wars, but nonetheless convicted him of waging aggressive wars.¹ And at first glance, one might find further support for Judge Anderson’s conclusion in the following language from the IMT judgment:²

“Planning and preparation are essential to the making of war. In the opinion of the Tribunal aggressive war is a crime under international law. The Charter defines this offense as planning, preparation, initiation, or waging of a war of aggression, ‘or participation in a common plan or conspiracy for the accomplishment * * * of the foregoing.’ The indictment follows this distinction. Count one charges the common plan or conspiracy. Count two charges the planning and waging of war. The same evidence has been introduced to support both counts. We shall therefore discuss both counts together, as they are in substance the same. The defendants have been charged under both counts, and their guilt under each count must be determined.”

Indeed, this language on its face seems to go even farther than the Doenitz decision, and to remove the distinction between the charge of conspiracy and the charge of, “waging”, aggressive war.

But, despite the language quoted above, when it came to determining the guilt or innocence of the individual defendants, the IMT came to very different conclusions under count one of that indictment—charging conspiracy—than it did under count two, which charged with the planning, preparation, initiation, and waging of aggressive wars. Eight defendants were convicted under count one, charge for conspiracy, and 14 were acquitted. Twelve defendants were convicted under count two and only four were acquitted; six were not charged under count two. What a judgment actually stands for is to be determined much more by what it finally holds than by two or three sentences taken from an opinion 170 pages long. And the actual holdings of the IMT judgment show, that the IMT treated the charge of conspiracy very differently from the charge of planning and waging aggressive war. Nor do the actual holdings conform any better to Judge Anderson’s conclusion that, “waging”, is to be

¹ Trial of the Major War Criminals, vol. I, *op. cit. supra*, p. 310.

² *Ibid.*, p. 224.

treated separately, but that, "planning, preparing, and initiation of aggressive wars" is, in practical effect, the same as the conspiracy. This is clearly shown by the decision with respect to the defendant Funk, who was acquitted on the charge of conspiracy, but was nevertheless convicted on the charge of planning and preparing aggressive war. The judgment with respect to Funk stated that:*

"Funk * * * took office as Minister of Economics and as Plenipotentiary for War Economy in early 1938, and as president of the Reichsbank in January 1939 * * * .

"Funk became active in the economic field after the Nazi plans to wage aggressive war had been clearly defined * * * . On 30 May 1939, the Under Secretary of the Ministry of Economics attended a meeting at which detailed plans were made for the financing of the war.

"On 25 August 1939, Funk wrote a letter to Hitler expressing his gratitude that he was able to participate in such world-shaking events; that his plans for the 'financing of the war,' for the control of wage and price conditions and for the strengthening of the Reichsbank had been completed; and that he had inconspicuously transferred into gold all foreign exchange resources available to Germany. On 14 October 1939, after the war had begun, he made a speech in which he stated that the economic and financial departments of Germany, working under the Four Year Plan, had been engaged in the secret economic preparation for war for over a year.

"Funk participated in the economic planning which preceded the attack on the U.S.S.R. His deputy held daily conferences with Rosenberg on the economic problems which would arise in the occupation of Soviet territory. Funk himself participated in planning for the printing of ruble notes in Germany prior to the attack, to serve as occupation currency in the U.S.S.R. After the attack he made a speech in which he described plans he had made for the economic exploitation of the, 'vast territories of the Soviet Union,' which were to be used as a source of raw material for Europe.

"Funk was not one of the leading figures in originating the Nazi plans for aggressive war * * * . He did, however, participate in the economic preparation for certain of the aggressive wars, notably those against Poland and the Soviet Union, but his guilt can be adequately dealt with under count two of the indictment."

* Ibid., pp. 304-305.

The Tribunal, the IMT, proceeded to acquit Funk of the charge of conspiracy embodied in count one, but convicted him under count two, and the quotation above shows that it was for planning and preparing aggressive wars. This, we submit, clearly establishes that the IMT regarded the evidence against Funk as insufficient to convict him on the charge of conspiracy but sufficient to convict him on the charge of planning and preparing aggressive war, and this decision is therefore inconsistent with Judge Anderson's view that, "planning, preparation, and initiation of aggressive wars is, in practical effect, the same as the conspiracy." To the same effect is the IMT judgment on Funk with respect to the defendant Frick.¹

The reason why the IMT construed the concept of, "conspiracy," more narrowly than the concept of, "planning, preparing, initiating, and waging" is clear, I think, if we keep in mind that in these proceedings we are applying international penal law, and that we must not approach these problems solely from the standpoint of any single judicial system. During the last century, continental jurists have regarded the concept of conspiracy as somewhat dangerous and, on the whole, unnecessary in view of the broadening of the concept of attempts. Thus, "conspiracy (Komplott), as a distinct offense, was stricken from the revised codes of many of the German states during the 19th century."² Many French jurists also look upon the doctrine of conspiracy with disfavor. The French member of the IMT, Professor Donnedieu de Vabres, has stated:³

"The general notion of conspiracy is peculiar to British law. The indictment includes in this term the entire Hitlerian enterprise leading to the seizure of power and to aggressive war * * * .

"The danger of such incriminations is to open the door to despotism. The charge of conspiracy is the favorite weapon of tyranny."

The above considerations, we suggest, fully explain why the IMT applied the concept of, "conspiracy," in international penal law much more narrowly than the concept of, "planning, preparing, initiating, and waging." Under the IMT holdings, it appears that, in order to be guilty of conspiracy, the defendant must have occupied a more prominent role, or have been in closer contact with the chief of state, than is necessary in the case of, "planning, preparing, initiating, and waging." Thus, in the case

¹ *Ibid.*, pp. 299-300.

² Wharton's Criminal Law, *op. cit. supra*, p. 1361.

³ Donnedieu de Vabres, *Le Procès de Nuremberg*, unpublished lecture, spring of 1945, to the Association des Études Internationales et Criminologiques.

of the defendant Funk, the IMT found that he was, "not one of the leading figures in originating the Nazi plans for aggressive war."¹ And with respect to the defendant Frick, who was also acquitted of conspiracy but convicted of, "planning, preparing, initiating, and waging," the IMT stated:²

"The evidence does not show that he participated in any of the conferences at which Hitler outlined his aggressive intentions. Consequently the Tribunal takes the view that Frick was not a member of the common plan or conspiracy to wage aggressive war as defined in this judgment."

It is too soon to tell what place the doctrine of conspiracy will eventually occupy in international penal jurisprudence. In the IMT judgment, the views of the continental jurists prevailed. Mr. Henry L. Stimson criticized the IMT judgment on precisely this ground:³

"If there is a weakness in the Tribunal's findings, I believe it lies in its very limited construction of the legal concept of conspiracy. That only eight of the 22 defendants should have been found guilty on the count of conspiracy to commit the various crimes involved in the indictment seems to me surprising. I believe that the Tribunal would have been justified in a broader construction of the law of conspiracy * * *."

In his opinion in the Krupp case, Judge Anderson came to a contrary conclusion:⁴

"No less authority than Mr. Henry L. Stimson, one of the greatest American statesmen and lawyers, has regretted that the IMT gave a restricted construction to the provisions of the London Charter relating to the crime of conspiracy, but with due deference to all concerned, I have felt bound to disagree."

In the present case, at least as to most of the defendants, the distinction drawn by the IMT between, "conspiracy," and "planning, preparing, initiating, and waging" is, we believe, academic, for most of the defendants attended one or more of the Hitler conferences which Funk and Frick did not attend. As is apparent from the IMT judgment, attendance at these conferences, or other opportunity to learn at first hand of Hitler's intentions, was the test generally utilized by the IMT to determine whether an individual defendant was guilty of conspiracy. Consequently, most of these defendants would fall within the more limited concept of conspiracy adopted by the IMT and Judge Anderson.

¹ Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 305.

² *Ibid.*, p. 299.

³ The Nuremberg Trial: Landmark in Law, by Henry L. Stimson, in vol. 25, "Foreign Affairs", No. 2 (January 1947), p. 187.

⁴ United States *vs.* Alfrid Krupp, et al., Case No. 10, vol. IX, Concurring Opinion of Judge Anderson.

Before leaving the subject of conspiracy, a special word should be added with respect to the invasions of Austria and Czechoslovakia. In the indictment before the IMT, these invasions were charged as criminal aggressive acts committed in the course of the conspiracy denounced in count one, but were not charged as elements of, "planning, preparing, initiating, and waging," in count two. Consequently, although seven of the eight defendants¹ convicted of conspiracy were convicted in part on the basis of the invasions of Austria and Czechoslovakia, none of the convictions under count two were or could have been based on the Austrian and Czechoslovakian invasions. Thus, although the defendant Kaltenbrunner was found to have been connected with the invasion of Austria, the IMT pointed out that "the Anschluss, although it was an aggressive act, is not charged as an aggressive war,"² and the same observation was made in the case of Schacht.³

In the present case, however, the invasions of Austria and Czechoslovakia are not only charged as components of the conspiracy under count four of this indictment, but also as invasions and aggressive acts under count one. And the IMT found that the seizures of Austria and Czechoslovakia were, "invasions," and "acts of aggression"⁴ and expressly held that the occupation of Austria was a, "crime within the jurisdiction of the Tribunal".⁵ Consequently, whereas the IMT was obliged under the indictment before it to treat the invasions of Austria and Czechoslovakia only under the charge of "conspiracy," no such necessity exists under the indictment in this case.

The Responsibility of Military Leaders for Crimes Against Peace

MR. NIEDERMAN: Throughout the proceedings before this Tribunal and before the IMT, the defense has contended that the military leaders, by virtue of the very nature of their profession, are not susceptible to prosecution for crimes against peace and war crimes. The reasoning in support of this position has been stated in various ways. Sometimes it takes the form of the argument that the doctrine of superior orders is a complete defense to the prosecution of a military leader. Before the IMT, Dr. Laternser declared that the German military leaders were being prosecuted because they served their country as soldiers, and argued that a military man, "is not allowed to decide for himself whether the cause for which he fights is good or bad," and

¹ All but Rosenberg.

² Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 291.

³ *Ibid.*, p. 309.

⁴ *Ibid.*, pp. 192, 194, and 198.

⁵ *Ibid.*, p. 318.

that it is, "his duty to obey and to ask no questions."¹ Counsel for Leeb took the same position before this Tribunal. (*Tr. p. 1796.*) In this respect, counsel went further than the defendant Leeb himself, who agreed that the acts of a soldier, as of anyone else, must be limited by his own "human conscience," and that a soldier is under no duty to commit crime.²

This argument of military immunity, which would reduce military men to a sort of sub-human status as men incapable of exercising moral judgment on their own behalf—no more answerable to the laws of God and man than animals and small children—has, fortunately, found no acceptance in international penal law. The same arguments were made on behalf of the defendants Keitel, Jodl, Doenitz, and Raeder before the IMT and were unqualifiedly rejected. Keitel, Jodl, Doenitz, and Raeder were all found guilty of crimes against peace, in addition to war crimes and crimes against humanity. Before the Nuernberg Military Tribunals established under Control Council Law No. 10, military leaders were held answerable under the laws of war and convicted of war crimes by Tribunal V in the so-called "Hostage" case (*United States vs. Wilhelm List, et al., Case No. 7*), as well as in the *Medical* case and the *Milch* case.³ The responsibility of military leaders for crimes against peace has not been involved in any of the previous trials under Law No. 10, but both the Farben and Krupp judgments indicate quite clearly that the military leaders are answerable, just as is anyone else, if their guilt is established by the evidence. Thus, in the judgment of Tribunal VI acquitting the Farben defendants on the charge of crimes against peace, the Tribunal stated:⁴

"The defendants now before us were neither high public officials in the civil government nor high military officers.

Their participation was that of followers and not leaders." And Judge Anderson, in his concurring opinion dismissing the charges of aggressive warfare against the Krupp defendants, stressed that the defendants in that case, "were private citizens and noncombatants," and that none of them had any, "control over the conduct of the war or over any of the armed forces; nor were any of them parties to the plans pursuant to which the wars were waged".⁵

If these remarks are dicta, the judgment of the IMT is not. The decisions as to Keitel, Jodl, Doenitz, and Raeder categor-

¹ *Ibid.*, vol. XXII, 1948, Plea before the IMT by Dr. Hans Laternser, pp. 45-46.

² Testimony of Field Marshal von Leeb before the commissioner of the IMT.

³ *United States vs. Karl Brandt, et al., Case No. 1, vols. I and II*; and *United States vs. Erhard Milch, Case No. 2, vol. II*.

⁴ *United States vs. Carl Krauch, et al., Case No. 6, vols. VII and VIII*.

⁵ *United States vs. Alfried Krupp, et al., Case No. 10, vol. IX, Concurring Opinion of Judge Anderson*.

ically and unequivocally establish that military leaders, just as other men, are bound by the obligations of international law and can be prosecuted for violations thereof, whether the charge be the commission of crimes against peace or of crimes against the laws and customs of war. Indeed, the IMT went much farther, and squarely expressed the view that many military leaders other than the four whom it convicted as individuals, must also have been guilty of crimes against peace and war crimes. The IMT declined to render a declaration of criminality against the general staff and high command on the ground that it was not an "organization" or "group" within the meaning of that word as used in the London Charter, but in so doing the IMT declared:*

"Although the Tribunal is of the opinion that the term 'group' in Article 9 must mean something more than this collection of military officers, it has heard much evidence as to the participation of the officers in planning and waging aggressive war, and in committing war crimes and crimes against humanity. This evidence is, as to many of them, clear and convincing."

* * * * *

"Where the facts warrant it, these men should be brought to trial so that those among them who are guilty of these crimes should not escape punishment."

We may take it as established, then, that the guilt or innocence of these defendants under counts one and four of the indictment is to be determined on the basis of the same principles as are applicable in the case of other defendants charged with the planning and waging of aggressive war. We come back once again to the two necessary elements of act and state of mind. In order to establish their guilt, it must be shown that they carried on substantial activity in a responsible capacity in connection with the planning or waging of war. It must be shown that they carried on such activity with the knowledge that the military power would be used, or was being used, to carry out a policy of conquest by means of aggressive wars or the threat of aggressive wars.

In order to determine whether the element of "participation" has been sufficiently established against any given defendant, it is necessary to establish the position or positions which he occupied at the time the aggressive wars were being planned and waged, and the nature and scope of the authority, responsibility, and duty which attached to his position or positions. In this connection, we suggest, the defendants' rank is but one factor to

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, pp. 278-279.

be considered among numerous others. To be sure, it is ordinarily true that a general discharges more important and responsible functions than a major, that he is in a better position to influence the course of events, and that he is likely to have better access to information. But this is by no means universally true. A young staff officer of relatively junior rank at OKW or OKH, for instance, might well have much better information and far more actual influence in planning operations than a very much more senior officer in a routine training or administrative position. In the field, the chief of staff of an army or army group would ordinarily have responsibilities and information of far broader scope than the commander of a division, though the latter might well be of a senior rank. In short, the matter of rank should not be altogether overlooked, but it should not be given more weight than the circumstances in any given case warrant.

Similarly, as a general and abstract proposition of international penal law, we cannot gauge the question of participation solely by the size of the formation which an officer commands. In wars between the major military powers the commander of a battalion, regiment, brigade, or even division may not loom very large. But in wars between the small countries, a battalion or even a company may be the strategic equivalent of a division. Analogously, the role of the German military leaders in the conquest of Denmark is not to be lightly pushed aside merely because the Danish Army was small and therefore very few German troops had to be employed to effect the conquest of Denmark.

In short, in determining such questions as the degree of "participation," or whether the information available to a man must have been sufficient to bring conviction to his mind, we must apply the standards of reasonable men to the circumstances in each case as they appear from the evidence.

*The Evidence relied upon by the International Military Tribunal
Keitel, Jodl, Raeder, and Doenitz*

Before turning to the evidence with respect to the defendants in this case, it will be profitable to look once more at the opinion of the IMT. By examining the judgments of the IMT against the military defendants in that case—Keitel, Jodl, Raeder, and Doenitz—we may ascertain what facts and circumstances were held to constitute the necessary evidence with respect to participation and knowledge in order to support the verdict of guilty which was rendered as to all four of those defendants.

There was, of course, a fifth military defendant tried by the IMT—Hermann Goering, who was the Commander in Chief of the Air Force. Goering, however, was not a career soldier, and his

offices and responsibilities under the Third Reich were of so varied a nature that his inclusion with Keitel, Jodl, Raeder, and Doenitz would not be illuminating. We may note, however, that the IMT, in finding him guilty of crimes against peace, stressed the role which the air force played in the subjugation of Czechoslovakia, Goering's meetings with Hitler and the other military leaders on 23 May 1939 and 22 August 1939, which preceded the attack on Poland, his participation in planning the invasion of Norway, and his status as Commander in Chief of the Air Force in all of the aggressive wars.

Keitel, as Chief of the OKW, had no command authority over the three branches of the armed forces, but was in effect the chief of Hitler's own military staff, which assisted and advised the Fuehrer in the preparation of his directives and coordinated the operations of the army, navy, and air force.¹ Keitel was held to have been connected with all the invasions and aggressive wars involved in the IMT case. With respect to Austria, Keitel—together with Reichenau and the defendant Sperrle—attended the conference with Schuschnigg in February 1938, in order to make a "military demonstration." When Schuschnigg called for a plebiscite on the question of Austrian independence, Keitel participated in the improvised military arrangements for the march into Austria. During the ensuing months, Keitel signed or initialled many of the OKW directives and memoranda in the so-called "Fall Gruen" [Case Green], the plan for the military destruction of Czechoslovakia. After Munich, he initialled other directives for the conquest of the remainder of Czechoslovakia. Keitel was present at the conference with Hitler on 23 May 1939, when the Fuehrer announced his intention, "of attacking Poland at the first suitable opportunity," and signed or initialled various of the directives in connection with "Fall Weiss" [Case White], the plan for the military destruction of Poland. The plans for the invasion of Norway and Denmark were originated by the German Navy, and were finally completed by a special inter-service staff under Keitel's supervision. Keitel signed various directives for the attack in the West, in violation of the neutrality of Belgium, Holland, and Luxembourg. He initialled numerous directives for the wars against Greece and Yugoslavia. He initialled many directives in "Fall Barbarossa", the plan for the military destruction of the U.S.S.R., and attended Hitler's conference with the military leaders on 14 June 1941, just before the attack.

Jodl was a section chief in the OKW in charge of operational planning.² The evidence relied upon by the IMT to support his

¹ *Ibid.*, pp. 288-289.

² *Ibid.*, pp. 322-324.

conviction in general parallels the evidence against Keitel. Jodl, however, was assigned to a minor troop command from September 1938 to September 1939, and accordingly was not found to have been involved in the occupation of Bohemia and Moravia or the attack against Poland. He participated in improvising the plans for the invasion of Austria, and initialled many of the directives and memoranda in "Fall Gruen" [Case Green]. He played a part in planning the invasion of Norway and Denmark and the attack in the West, and continued his planning activities in connection with the invasions of Greece, Yugoslavia, and the Soviet Union. He was present at the conference between Hitler and the military leaders on 14 June 1941, just before the Russian campaign.

Raeder was the Commander in Chief of the German Navy from 1928 to 1943.¹ In support of his conviction on the charge of crimes against peace, the IMT found him responsible for rearmament of the German Navy in violation of the Treaty of Versailles. He was present along with Goering, von Fritsch, and others, at the conference in November 1937, at which Hitler outlined his plans for the eventual occupation of Austria and Czechoslovakia, and received various of the directives in connection with "Fall Gruen" [Case Green]. He likewise received directives in connection with the attack against Poland, and directed the supporting activities of the navy in connection therewith; he was present at the meetings with Hitler in May and August 1939, at which Hitler announced his intentions. On the suggestion of a subordinate, Raeder initiated the idea of invading Norway, and his staff participated through the OKW in developing the plans for the attack on Denmark and Norway. He received many directives in connection with the wars against Greece, Yugoslavia, and the Soviet Union, and the German Navy lent minor support to these operations.

Doenitz was acquitted on the charge of conspiracy, and his conviction under count two of the indictment before the IMT was based on much narrower grounds than in the case of the other three military defendants.² He was a rear admiral in command of the submarine arm of the German Navy when war broke out, but rose rapidly and succeeded Raeder as Commander in Chief of the Navy in 1943. He was not present at any of the important conferences where Hitler's decisions were announced. He was convicted of waging aggressive war apparently upon the basis that the U-boat arm was the most important part of the German fleet, and that he received sufficient advance information in order

¹Ibid., pp. 315-316.

²Ibid., pp. 206, and 310-311.

to co-ordinate submarine operations with the other activities of the armed forces. With respect to the invasion of Norway and Denmark, the IMT emphasized that Doenitz made out the operational orders for the supporting U-boats in March 1940, five weeks in advance of the actual attack.

*The General Scope of the Evidence against the Defendants
in the Present Case*

If we apply the principles which have been set forth above to the present case, it will appear that the evidence is abundant and more than sufficient to establish the requisite degree of participation and knowledge on the part of these defendants. Furthermore, in the case of most of the defendants, the evidence is very parallel to and quite as strong as the evidence relied upon by the IMT in convicting Keitel, Jodl, and Raeder. As to one or two of the defendants—such as the defendant von Roques—where the evidence under counts one and four fall short of this standard, the proof is nonetheless as strong as or stronger than the proof on the basis of which Doenitz was convicted by the IMT of waging aggressive war.

In terms of the nature of "participation" it will be observed that the 13 defendants should be divided into two more or less distinct groups. Four of the defendants—Schniewind, Reinecke, Warlimont, and Lehmann—were leading staff officers, whose activities were carried on at the very highest levels, the OKW and the OKM. To borrow a phrase from American military vocabulary, we would say that these four defendants functioned, "at War Department level". The importance of Schniewind's position as Chief of the Marinekommandoamt [naval command office] and Chief of Staff of the Skl [naval war staff], where he was in charge of all matters pertaining to operations and intelligence, needs no emphasis. During the years 1938–1941, when the invasions and aggressive wars were planned and launched, Schniewind's role in planning and guiding the operations of the German Navy as a whole was second only to that of Raeder himself. With Raeder, he attended three of the four conferences stressed by the IMT at which Hitler outlined his plans, so heavily relied upon by the IMT in finding Keitel, Jodl, and Raeder guilty of conspiracy to wage aggressive war. He was active in the invasion of Norway and Denmark, in which the navy played a major role. He received the same directives which Raeder received in connection with the wars in which the German Navy played a smaller part.

During the same period, Reinecke and Lehmann were the chiefs of important departments of the OKW. They were not directly

concerned with operations, and did not attend the major meetings which Hitler held with the military leaders, but each within his own sphere—law, prisoners of war affairs, and other important fields—was called upon to plan for coming operations, and to issue appropriate directives during the course of the wars and for the occupation of enemy territory. Thus, in advance of the Russian campaign, Lehmann participated in preparing and distributing the “Commissar Order,” and Reinecke made plans for the screening and handling of Russian prisoners of war.

The defendant Warlimont was not directly responsible to Keitel, and was junior in rank to Reinecke, but as chief of the most important section in Jodl’s department, Warlimont’s role in planning and waging of aggressive war was much more important than that of Reinecke. As chief of the planning section of Jodl’s department, Warlimont was fully informed of all operational intentions, and participated actively in the preparation of operational plans, but his activities transcended purely operational matters, and it is safe to say that no defendant in the dock was connected in such a multiplicity of ways with the planning and waging of aggressive war as was Warlimont. He is a prime example of the fact that the importance of a military leader’s activities and the information at his disposal cannot be determined merely by his rank.

The other nine defendants were all top level field commanders. The defendant Sperrle, from the outbreak of the war to August 1944, commanded an air fleet (Luftflotte), the air force equivalent of an army group. He transferred to the air force at about the time of the denunciation of the arms limitation of the Treaty of Versailles in 1935, and, as commander of the Condor Legion in Spain, commanded the revived air arm of the armed forces in its first combat test. Sperrle, together with Keitel and Reichenau, participated in the “military demonstration”, at the Schuschnigg conference, and Sperrle commanded the air force which would have been used for the conquest of Czechoslovakia pursuant to “Case Green”. As commander of the German Air Forces in the west, Sperrle participated in numerous high-level planning conferences and in the preparation and execution of the invasion of the Low Countries and France.

Of the other eight defendants, all except Roques were top flight army field commanders who, during the course of the war, commanded army groups or armies. The over-all plans of campaign for Germany’s aggressive wars were laid down in directives from OKW and OKH, and their practical application in the field was developed by the army group and army commanders pursuant to these directives, and in consultation with the Commander in Chief

of the Army and his chief of staff. As is clearly shown by the Halder Diary and a mass of other evidence, the leading figures in the final development of these plans were the commanders in chief of the army groups and armies and their chiefs of staff, and the Commander in Chief of the Army, von Brauchitsch, and his chief of staff, Halder. During the period from 1938 to June 1941, when the invasions and aggressive wars were being planned and launched, all of these defendants except Reinhardt and Roques were, at one time or another, commanders in chief or chiefs of staff of armies or army groups. Until the end of 1941, the defendant von Leeb, von Runstedt, and von Bock were the only three army group commanders. The defendant Kuechler, from the very beginning, was the commander in chief of an army, and he succeeded Leeb, upon the latter's retirement, as the commander in chief of an army group. The defendant Hoth was a corps commander during the Polish and western campaigns, but commanded a Panzer group, the tactical equivalent of an army, when the Russian invasion was launched. The defendant Salmuth was the chief of staff of an army group until May 1941, when he became a corps commander. The defendant Hollidt was the chief of staff of an army until the conclusion of the Polish campaign, at which time he became a divisional commander. The defendant Reinhardt was first a divisional and then a corps commander, and succeeded Hoth as the commander of a Panzer group a few months after the launching of the Russian invasion. The defendants Roques and Woehler are charged under count one only with respect to the aggressive war against the Soviet Union; Woehler was at that time the chief of staff of an army, and Roques was the commander of an army group rear area, with the status of a corps commander. Of these defendants, Leeb, Kuechler, Hoth, and Salmuth attended several of the meetings at which Hitler declared his intentions. Woehler, as chief of staff of the Eleventh Army, participated extensively in planning the campaign against the Soviet Union, and Reinhardt and Roques developed tactical plans at corps level.

The Contentions of the Defense, Analyzed by Way of Illustration

The foregoing is but the barest skeleton outline of the evidence against the defendants under counts one and four of the indictment. In our brief covering counts one and four, we are including a detailed summation of the evidence with respect to each defendant, and it would serve no useful purpose to duplicate here what we are setting forth in the brief.

Before concluding our statement under counts one and four, however, we will devote some attention to the contentions which

have been put forth on the part of the defense to meet the prosecution's evidence. Most of these defenses and explanations are common to all or most of the defendants, and it would be possible to discuss these defenses in general terms. We think, however, that it will be more helpful to the Tribunal if we analyze these defenses in the specific form in which they have been put forth by several of the individual defendants, for in this manner the factual and legal issues will be more closely joined. We will discuss these defenses, therefore, by examining the evidence which has been adduced and the arguments which have been advanced on behalf of the defendants Leeb, Schniewind, and Lehmann.

Von Leeb

MR. RAPP: The defendant von Leeb was in retirement from February until July of 1938, and accordingly played no part in the invasion of Austria. He was not involved in the invasion and occupation of Denmark and Norway, nor of Greece and Yugoslavia, and is not charged under the paragraphs dealing with the aggressive wars against those four countries. Leeb and Rundstedt, as the two most senior German generals played a leading part in the expansion of the German Army between 1933 and 1938, and Leeb is specifically charged in connection with the invasion of Czechoslovakia, and the aggressive wars launched in three major campaigns; against Poland, France, and the United Kingdom in 1939, against Belgium, Holland, and Luxembourg in 1940, and against the Soviet Union in 1941.

Before dealing with Leeb's role in these aggressive wars, we would like first to dispose of certain arguments put forth in his behalf which seem to us patently wide of the mark. For example, Leeb testified that he wrote a book on defensive warfare, (*Tr. p. 2280*) and his counsel's opening statement laid great stress on the supposed contrast between the fact that Leeb is charged here with waging aggressive war and the fact that he is a specialist in defensive warfare. (*Tr. pp. 1757, 1764.*) The prosecution is quite unable to perceive the relevance of this evidence. It is quite apparent that a nation which is defending itself against an aggressive attack may well, if it is able, adopt offensive strategy and tactics in self defense; it is equally apparent that an aggressor nation may find it necessary at times to resort to defensive strategy and tactics. The defendant Schniewind during the course of his testimony pointed out very clearly the, "distinction between military offensive measures and measures pertaining to aggressive war". (*Tr. p. 4841.*) The armor plating on battleships is defensive armament, and soldiers wear helmets to protect their heads from injury, but if the battleship attacks the

naval forces of a peaceful and friendly nation, or if the soldier engages in an armed onslaught against a peaceful neighboring country, the armor plating and the helmet are surely being used for aggressive purposes. This argument is, to put it bluntly, simply childish. And in any event, when Leeb's forces broke through the Maginot Line, and when they marched from East Prussia to the gates of Leningrad, von Leeb was not conducting defensive warfare.

Certain other contentions are equally superficial. Thus Leeb stressed his opposition to national socialism because of its "vociferous clamor," and its antireligious aspects (*Tr. pp. 2281-82*); he repeatedly emphasized that he is devoutly religious (*Tr. p. 2287*), and that he protested Himmler's decree encouraging mothers to bear children out of wedlock (*Tr. pp. 2283-84*); his counsel in so many words accused the prosecution of being, "prejudiced" and "not solely guided by principles of justice", because we have accused Leeb and other, "decent people of the best families" (*Tr. p. 1776*); witnesses on behalf of Leeb, such as General Halder, also testified that he was devout, and that he suffered certain minor annoyances from the Nazis because of anti-Nazi utterances by his wife. (*Tr. p. 1927.*) Similar evidence has been given on behalf of other defendants. These contentions do not touch the prosecution's case, and accomplish only the destruction of straw men. We emphasized again and again in our opening statement that the defendants are not charged with being Nazis, and we described in detail the numerous points of friction between Hitler and his party cohorts on the one hand, and the armed forces on the other. None of the defendants is charged with being antireligious, and no attempt has been made to disparage the family background of any of them. These matters are, to be sure, of importance in evaluating an individual's entire character but they do not seem to us of much significance in ascertaining the defendant Leeb's share in preparing and waging aggressive war in the light of the mass of direct evidence in the record.

Accordingly, let us look at the evidence with respect to Leeb's role in the occupation of the Sudetenland. The OKW directive for military action against Czechoslovakia was issued in May 1938, when Leeb was in temporary retirement; on the witness stand, Leeb could not recall when he first gained knowledge of, "Case Green". (*Tr. p. 2300.*) According to Leeb, he learned at some unspecified date that he was to command an army—the Twelfth Army—for the proposed operation against Czechoslovakia. He had been on vacation in the mountains, and sometime in August he came to Munich to discuss the plan. Thereafter,

“during the months of August and September” he “continued to participate in the working out of the preparation of the Twelfth Army”. (*Tr. pp. 2300–2301.*) Leeb did not, “expect the possibility of an armed conflict”, because, according to him, Germany proposed only to occupy, “a border area”, “20 to 30 kilometers deep”. In this area there were, “either no Czech troops at all”, or “if they were stationed there at all, would probably withdraw to the rear areas, in case of our advance”. At the end of September, “the two interested Western Powers gave their agreement and consent”, and “this invasion was carried out in a peaceful manner”. He expressed the astonishing opinion that, “probably no shot would have been fired even if this agreement (the Munich Agreement) had been reached prior to the invasion”. (*Tr. pp. 2300–2301.*)

The actual facts, clearly established by the documents in the record and the testimony of the defense witness Halder, tell a totally different story. Leeb’s service record shows that, although he was in retirement, he was made available for service with the German Army headquarters at Munich on 1 July 1938. (*Tr. pp. 2080–81.*) Leeb was a logical choice to lead an army into Czechoslovakia; from 1930 to 1935, he had commanded the military district at Munich, and he was an inhabitant of Bavaria and, “knew all about the Bavarian forest area”. (*Tr. p. 2080.*) “Case Green” was not a plan for the occupation of a border area 20–30 kilometers deep; as the documents clearly show, it was a plan to, “smash Czechoslovakia by military action”, to prevent the Czech Army from escaping into Slovakia by forcing it into battle, and to occupy Bohemia and Moravia as speedily as possible. Leeb’s Twelfth Army and Rundstedt’s Second Army were the two largest armies to be employed in the operation, and Leeb’s army was to play a vital role in smashing Czech resistance. Its mission is described in a memorandum of a conference taken from the “Case Green” documents (*388-PS, Pros. Ex. 1048*):

“Twelfth and Fourteenth Armies will work together. Their columns must necessarily support one another during the thrust and cause the front to collapse. Bohemia only weakly occupied at frontier: 1 division to 120 kilometers. Operation therefore promising. After the thrust in a northerly direction, Twelfth Army forces [turns] east and ‘races’ for Bruenn [Brno]. The enemy will not be able to employ reserves according to plan.”

In short, “Case Green” was a highly aggressive plan and was expressly so described by Halder. (*Tr. p. 1868.*) It was in fact so aggressive, and so likely to involve Germany in conflict with the Western Powers, that most of the leading German generals

were violently opposed to it and, according to Halder, even a military revolt against Hitler was planned. The Chief of the German General Staff, Beck, submitted a memo warning that the execution of "Case Green" would precipitate a world war. The German generals did not think that Germany was prepared for such a war, and Halder testified that they went to dangerous extremes to forestall such a development. (*Tr. pp. 1841-44.*) Indeed, this very episode is one of the matters chiefly relied upon by the defense in order to show that the German generals did not have an aggressive mentality and were opposed to Hitler. In the face of this overwhelming evidence, Leeb's testimony that, "Case Green" was a mere border operation is an unmitigated misrepresentation, and his suggestion that there would have been no fighting even if the Munich Agreement had not been reached is utterly fantastic.

Leeb also minimized his own activities in connection with "Case Green" in a manner which finds no support in the record. The picture he paints of himself at this time as a retired officer, with his mind concentrated on research into family archives and vacations in the mountains, who merely, "took an interest in these preparations", will not withstand a moment's reflection in the light of the record. Leeb and Halder both testified that Leeb took no part in the military planning of the projected attack (*Tr. pp. 2077, 2436*), but the documents in "Case Green" and the testimony of Leeb and Halder on cross-examination show that a special staff was formed in the summer of 1938, to work out the plan of operations for the Czech attack in the sector of the Twelfth Army. Leeb was, according to his service record, available for service in that very area at that very time, and the special staff was called, "Working Staff Leeb". Halder testified that, "Working Staff Leeb" was similar to "Working Staff Rundstedt", which was formed the following year to plan the attack on Poland. (*Tr. pp. 2082-83.*) A memorandum of 23 May 1939, concerning the formation of, "Working Staff Rundstedt" states (*388-PS, Pros. Ex. 1048*): "The 'Working Staff Rundstedt' consists for the beginning—similar to the 'Working Staff Leeb' in Munich in 1938—only of three persons." In 1939, the three persons were Rundstedt, Manstein, and Blumentritt. "Working Staff Leeb", was composed of Leeb, Manstein, and Blumentritt; Manstein was Leeb's chief of staff in the Twelfth Army, and Blumentritt was the operations officer. Manstein, as Leeb's chief of staff, attended a meeting of all the chiefs of staff with Hitler at the Obersalzberg on 10 August 1938, at which the divergences of views between Hitler and the generals concerning the likelihood of intervention by the Western Powers, and the

weaknesses of the so-called "West Wall", flared up sensationally. (1780-PS, *Pros. Ex. 1034*.) Leeb himself testified that, during August and September, he "continued to participate in the working out of the preparations of the Twelfth Army". (*Tr. p. 2300*.)

As a result of the Munich Agreement, it was unnecessary to carry out "Case Green". Leeb led his army into the Sudetenland and remained there until approximately the middle of October (*Tr. p. 2444*), when he left active duty. On the 11th of that month, the OKW asked all army headquarters, including Leeb's, to report, "what reinforcements are necessary in the present situation in order to break all Czech resistance in Bohemia and Moravia." (388-PS, *Pros. Ex. 1048*.)

Leeb's testimony concerning the outbreak of the war in September 1939, is equally evasive and meretricious. He stated that he was, "in retirement", and "did not participate at all"; that, "as a complete surprise to me", he was called to the meeting with Hitler on the Obersalzberg on 22 August 1939; and that from Hitler's remarks he gathered only, "the impression that the situation was somewhat similar to the situation which prevailed before the invasion of the Sudetenland and * * * that there would be no war". He says that he based his conclusion upon Hitler's announcement of the nonaggression pact about to be concluded with Russia, upon Hitler's "100 percent assurance," that France and England would not intervene, and Hitler's statement that negotiations with Poland would continue. He further testified that he commanded Army Group C, with the mission of defending the western front of Germany. (*Tr. pp. 2301-04*.)

It is, of course, quite preposterous to imagine that Leeb would have been given such a critical assignment—command of the entire western front—without opportunity being afforded him to acquaint himself with the forces at his disposal, their equipment and their resources for defense in general. And, once again, the testimony of the defense witness Halder is quite sufficient to demonstrate this absurdity. Halder testified that an attack from the west had to be anticipated as a strong possibility in the event of a German attack on Poland, that the assignment of protecting Germany's western frontier was given to Leeb, and he must have known by then, "that the possibility of a military operation in the West existed and was being anticipated and that it was his duty in such a case to protect the west with a minimum of forces" (*Tr. p. 2094*). The vital nature of Leeb's role in the West is set forth in a directive for the conduct of the war issued on 31 August 1939, which stated (C-126G, *Pros. Ex. 1099*):

"The army will hold the Siegfried Line (West Wall) and will make preparations to prevent its encirclement in the north

by the western powers invading Belgium or Dutch territory. If French forces should enter Luxembourg, the frontier bridges may be blown up."

Leeb's, "impression", of Hitler's remarks on the Obersalzberg is equally implausible. The nonaggression pact with Russia made it more likely, not less likely, that Hitler would press home his advantage ruthlessly. Hitler did indicate a hope that England and France would not intervene, but he gave no "100 percent assurance", and in fact made it quite clear that he would carry through with his plan for the destruction of Poland regardless of what the Western Powers might do. So far from expressing any belief that negotiations with Poland would lead to a satisfactory solution, he told the generals (798-PS, *Pros. Ex. 1101*):

"Poland is in a position in which I wanted her * * *. I am only afraid that at the last moment some *Schweinehund* will make a proposal for mediation."

Hitler also made clear his aggressive intentions against the western powers, and his cynical contempt for any rudiment of morality in international relations:

"It was clear to me that a conflict with Poland had to come sooner or later. I had already made this decision in the spring, but I thought that I would first turn against the west in a few years, and only afterwards against the east. But the sequence cannot be fixed. One cannot close one's eyes even before a threatening situation. I wanted to establish an acceptable relationship with Poland in order to fight first against the West. But this plan which was agreeable to me, could not be executed, since essential points have changed. (798-PS, *Pros. Ex. 1101*.)

"Everybody shall have to make a point of it that we were determined from the beginning to fight the Western Powers. Struggle for life or death * * *. A long period of peace would not do us any good * * *. Destruction of Poland in the foreground * * *. Even if war should break out in the west, the destruction of Poland shall be the primary objective * * *. I shall give a propagandistic cause for starting the war,—never mind whether it is plausible or not. The victor shall not be asked, later on, whether we told the truth or not. In starting and making a war, not the right is what matters, but victory. Have no pity. Brutal attitude * * *. Complete destruction of Poland is the military aim * * *.

"Conviction that the German Wehrmacht is up to the requirements. The start shall be ordered, probably by Saturday morning." (1014-PS, *Pros. Ex. 1102*.)

As the IMT found, these records of what Hitler said to Leeb

and the other generals show that the final decision for Poland's destruction was reached shortly before 22 August 1939, that a conflict between Germany and the West was unavoidable in the long run, and that although Hitler hoped to be able to avoid a simultaneous conflict with Great Britain and France, he fully realized that there was a risk of this happening but it was a risk which he was willing to take.¹

In the last analysis, the best that can be made out of Leeb's story is that he believed that, if Poland yielded to German demands, there would have been no war: "If the Polish Corridor question would have been solved in a manner tolerable for us, then no war would have resulted". (*Tr.* p. 2448.) Halder put it in much the same fashion; according to him the preparations for the invasion of Poland, "represented a military means of pressure in order to support his political aims". (*Tr.* pp. 2090-91.) But even Halder admitted that the generals, "had some reason to believe that Hitler's intentions were aggressive" (*Tr.* p. 2089), and in any event, the hope that Poland might succumb to the threat of force without actual fighting is no excuse. This was held by the IMT very squarely with respect to the defendant Raeder:²

"The defendant Raeder testified that neither he, nor von Fritsch, nor von Blomberg, believed that Hitler actually meant war, a conviction which the defendant Raeder claims that he held up to 22 August 1939. The basis of this conviction was his hope that Hitler would obtain a 'political solution,' of Germany's problems. But all that this means, when examined, is the belief that Germany's position would be so good, and Germany's armed might so overwhelming, that the territory desired could be obtained without fighting for it. It must be remembered too that Hitler's declared intention with regard to Austria was actually carried out within a little over four months from the date of the meeting, and within less than a year the first portion of Czechoslovakia was absorbed, and Bohemia and Moravia a few months later. If any doubts had existed in the minds of any of his hearers in November 1937, after March 1939, there could no longer be any question that Hitler was in deadly earnest in his decision to resort to war."

In this connection, it is interesting to note that Leeb in his direct testimony did not discuss the occupation of Bohemia and Moravia in March 1939; when asked on cross-examination whether he did not regard the events of March 1939, as a breach of the Munich Pact, he replied that he, "lived in retirement at that time and kept away from all politics, therefore I did not ponder this

¹ *Ibid.*, p. 202.

² *Ibid.*, pp. 191-192.

question". This was from a man who had, himself, led the march into the Sudetenland, who was subject to recall in the event of war as one of Germany's greatest military leaders, and who professed to be deeply interested in questions of morality.

A final word should be said with respect to the fact that Leeb's forces were deployed along the western frontier, and were not engaged on Polish territory. His counsel has laid great stress upon this circumstance (*Tr. pp. 1784-85*), but in fact it does not touch the issues. Leeb knew at this time that the attack upon Poland was aggressive (*Tr. p. 2449*), and it is obvious that Rundstedt and Bock could not have attacked in Poland without Leeb's holding action in the West. In this respect, Leeb's position was exactly analogous to that of a bank robber who stands guard at the door to fend off interference by the police while his confederates rob the bank. It is well settled that such a person is criminally liable as a principal; as has been stated in a leading text on criminal law:¹

"No matter how wide may be the separation of confederates, if they are all engaged in a common plan for the execution of felony, and all take their parts in furtherance of the common design, all are liable as principals."

Furthermore, Leeb's position in the west was, fundamentally, no different from that of Doenitz. German submarine warfare was almost exclusively directed against England and France, and played no part or, at most a very insignificant part, in the fighting with Poland, but this did not prevent the IMT from convicting Doenitz of committing crimes against peace at the very outset of the war:²

"Submarine warfare which began immediately upon the outbreak of war, was fully coordinated with the other branches of the Wehrmacht. It is clear that his U-boats, few in number at the time, were fully prepared to wage war."

The evidence with respect to Leeb's responsibility for the aggressive wars in the West in the spring of 1940 is, if anything, even more conclusive than in the case of Czechoslovakia and Poland. The extent to which Leeb's testimony concerning the Western Campaign can be relied on is illustrated by the following colloquy between Leeb and his counsel on direct examination (*Tr. p. 2307*):

"Q. Field Marshal, before the Polish campaign, did any plans of a campaign against France exist?

"A. I don't know that, because I was retired then.

¹ Wharton's Criminal Law, *op. cit. supra*, vol. I, p. 341.

² Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 310.

“Q. What was the situation after the Polish campaign?

“A. I don't know that either because I was in no way a participant.

* * * * *

“Q. Weren't you present during any discussions and conferences concerning the western campaign?

“A. No. I received orders concerning my army group, and I passed these orders on and transmitted them to the armies under my command as orders of the army group.”

In fact, of course, Leeb commanded one of the three army groups on the western front, and during the campaign he broke through the Maginot Line, captured an entire French Army Group, and advanced deep into France. (*Tr. p. 2319.*) He engaged in numerous discussions and conferences concerning the western campaign of which the following: a conference on 27 March 1940, with Hitler, Brauchitsch, Halder, and Leeb's subordinate commanders, Witzleben, and Dollmann is but one example (*NOKW-3140, Pros. Ex. 1359*):

“1. Generaloberst von Leeb talks on:

“a. General situation. Tactical doctrine of French and German troops.

“b. Construction of fortifications, with special emphasis on fact that steel must not be stinted at the weak spots on both sides of Saarbruecken. Fuehrer interjected here that his desire to have the main battle position on the commanding ridges on the southern bank of the Saar river was frustrated only by the out-break of the war.

“c. Diversionary attack ‘Yellow’. Here the assertion is made that diversionary attacks must not be initiated on the Rhine front because of the subsequent attack at the Upper Rhine. Closing of Swiss border is discussed. Owing to coal shipments to Italy, the border cannot be closed before the actual start of the attack.

“2. Generaloberst von Witzleben talks on Operation ‘Yellow.’ Report is accepted without discussion. In the subsequent discussion on construction of fortifications, the Fuehrer lays great stress on artillery emplacements.

“3. General Dollmann speaks briefly on situation at Seventh Army, stressing its deficiencies. Outlines three crossing operations within operation ‘Yellow’.

“4. After that, the Fuehrer speaks about the general situation.”

In short, Leeb participated at the highest level in the planning of aggressive war in the West, and was one of the three chief executors of the aggressive plans. There is no issue as to knowledge; Leeb admits that he knew of Hitler's aggressive intentions (*Tr. pp. 2311-2312*), and he attended the meeting between Hitler and the military leaders on 23 November 1939, at which Hitler declared:*

"I shall attack France and England at the most favorable and quickest moment. Breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won."

Leeb has put forth two defenses. The first is that he joined with the other German generals in opposing Hitler's plan to attack in the West immediately after the Polish campaign in the fall of 1939. That is quite true, and the record contains a memorandum which Leeb submitted to Brauchitsch in October 1939, urging that it would be wiser for Germany to pursue a waiting policy, and pointing out the undesirable political repercussions which a violation of the neutrality of Holland, Belgium, and Luxembourg would entail. But all of this is no defense whatsoever. The aggressive wars in the west were in fact planned, prepared, and waged, and Leeb did in fact knowingly participate. Before the IMT, the defendants Keitel and Raeder both raised a similar, "defense of opposition", but the IMT rightly disallowed it. Indeed, in a deeper sense, Leeb's memorandum to Brauchitsch aggravates his guilt, for it shows that he clearly realized that a violation of the neutrality of Holland, Belgium, and Luxembourg would be looked upon with horror by all neutral states.

In the case of Holland, Belgium, and Luxembourg, Leeb makes the further defense that his troops did not invade those countries, since his entire campaign was fought in France. This contention, analogous to the contention that Leeb's troops were never actually on Polish soil, is also stressed by his counsel. The answer, of course, is the same as in the case of the contention about Poland. Leeb well knew that the entire design and plan of campaign in the West was to overrun the Low Countries and smash the French and British Armies. He confederated with Bock, Rundstedt, and others, and is just as liable for the criminal attacks on Belgium and Holland as are Bock and Rundstedt themselves: "In such cases of confederacy, all are responsible for the acts of each, if done in pursuance of, or as incidental to, the common design."

Leeb's criminal responsibility for the invasion of the Soviet Union need not detain us long; the evidence is overwhelming and

* *Ibid.*, p. 210.

his attempts at explanation are quite unconvincing. Once again, he commanded one of the three army groups involved in the attack, and led his forces north from East Prussia to Leningrad. The record is replete with the evidence of his leading role in planning and executing the invasion, and will be set forth in detail in our briefs. Leeb defended his participation on the ground that he was mentally opposed to the attacks, but there is no evidence that his "opposition" ever took any overt form and, in any event, for reasons already stated, his mental reservations do not constitute a defense. Leeb's only other defense is related to the question of knowledge. He attended the conference between the military leaders and Hitler in March 1941, when Hitler announced his definite intention to attack Russia and, according to Leeb, the burden of Hitler's argument was that Russia was about to attack Germany, and that in self-defense Germany would have to launch a so-called, "preventive war". (*Tr. p. 2328.*)

The argument that the German attack on the Soviet Union was launched in "self-defense", was also raised before the IMT, and was rightly rejected. Since the time of the IMT judgment, additional evidence presented in this case has abundantly reinforced the IMT's conclusion. It clearly appears, from the Halder diary and other documents, that Hitler decided to attack Russia for two primary reasons: first, in accordance with his long-cherished objective, expounded in *Mein Kampf* and in his speeches, to win "Lebensraum", in the East and exploit the natural resources of the Soviet Union, such as grain and oil. Second, Hitler was reluctant to undertake military operations across the channel against England, and concluded that England was holding out and refusing to make peace largely in the hope that Russia would come to her assistance. The attack against Russia was, in Hitler's mind, in large part a means to bring England to her knees. As early as July 1940, Halder quoted Hitler to the effect that, "With Russia smashed, Britain's last hope would be gone. Germany then would be master of Europe and the Balkans." (*NOKW-3140, Pros. Ex. 1359.*) Leeb's testimony that Hitler represented the war against the Soviet Union as a "preventive war," finds absolutely no basis in the record. Leeb and the other army group and army commanders in chief were present at the meeting with Hitler on 14 June 1941, shortly before the Russian campaign was launched, and Halder summarized Hitler's discourse as follows (*NOKW-3140, Pros. Ex. 1359*):

"After lunch, comprehensive political speech by the Fuehrer, in which he gives the reasons for his intention to attack Russia

and develops his calculations that Russia's disintegration will induce Britain to give up the struggle."

The other goal of destroying the Russian state and exploiting the resources of the Soviet Union was also clearly revealed to Leeb and the other military leaders. At the meeting of 30 March 1941, relied on by Leeb, Hitler did not say anything about a preventive war, but on the contrary made clear the far-reaching objectives of the Russian campaign. Leeb and the other generals were expressly told at this meeting that the destruction of the state and the extermination of the intelligentsia was part of their task. As Halder put it in his diary (*NOKW-3140, Pros. Ex. 1359*): "Our goal's in Russia: crush armed forces, break up state * * *. The individual troop commanders must know the issues at stake. They must be leaders in the fight." The organization and objectives of the elaborate German machinery for the economic exploitation of Soviet territory, set up under Rosenberg's leadership, were also well known to the military leaders.

There is not a shred of evidence in the contemporary documents to support Leeb's defense that the Soviet campaign was represented to the German generals as a "preventive war". As the IMT found:*

"It was contended for the defendants that the attack upon the U.S.S.R., was justified because the Soviet Union was contemplating an attack upon Germany, and making preparations to that end. It is impossible to believe that this view was ever honestly entertained.

"The plans for the economic exploitation of the U.S.S.R., for the removal of masses of the population, for the murder of commissars and political leaders, were all part of the carefully prepared scheme launched on 22 June, without warning of any kind, and without the shadow of legal excuse. It was plain aggression."

Schniewind

MR. DOBBS: In turning from Leeb to Schniewind, we not only turn from the army to the navy, but also from the highest level of planning and execution in the field to planning and execution at, "navy department level". Schniewind became chief of a bureau in the OKM [High Command of the Navy] in October 1937, and was fully informed concerning naval rearmament. He became Chief of Staff of the Naval War Staff about the time of Munich, was generally informed concerning "Case Green", and received

* *Ibid.*, p. 215.

the directives issued in anticipation of the occupation of Bohemia and Moravia. (*Tr. pp. 4940-41.*) But the principal charges against Schniewind under the indictment relate to the aggressive wars against Poland, the western powers and the Low Countries, Yugoslavia, and Greece, the Soviet Union and, in particular, Denmark and Norway. The evidence against Schniewind parallels very closely the evidence which led to the conviction of Raeder by the IMT.

In convicting Raeder of the commission of crimes against peace in connection with the outbreak of war with Poland, France, and the United Kingdom, the IMT stated:¹ "Raeder received * * * the directives of 'Fall Weiss' beginning with that of 3 April 1939; the latter directed the navy to support the army by intervention from the sea. He was also one of the few chief leaders present at the meeting of 23 May 1939. He attended the Obersalzberg briefing of 22 August 1939." Schniewind likewise received the directives on "Case White" and was present at the well-known meetings with Hitler on 23 May and 22 August 1939. (*Tr. pp. 4820-47.*) Furthermore, the record in this case contains many documents showing Schniewind's direct and constant participation in naval preparations for war with Poland and the western powers. Schniewind's only defense is the same contention that was made on behalf of Raeder and Leeb, namely, that he thought Poland might yield to German demands without fighting; this defense was rejected by the IMT, and has already been discussed in our analysis of the evidence against Leeb.

With respect to Raeder's responsibility for the invasion of Denmark and Norway, the IMT judgment states:²

"Admiral Karls [Carls] originally suggested to Raeder the desirable aspects of bases in Norway. A questionnaire, dated 3 October 1939, which sought comments on the desirability of such bases, was circulated within Sk1 [The Naval War Staff]. On 10 October Raeder discussed the matter with Hitler; his war diary entry for that day says Hitler intended to give the matter consideration. A few months later Hitler talked to Raeder, Quisling, Keitel, and Jodl; OKW began its planning and the Naval War Staff worked with OKW staff officers. Raeder received Keitel's directive for Norway on 27 January 1940, and the subsequent directive of 1 March, signed by Hitler."

The evidence against Schniewind is substantially the same. Admiral Karls' original suggestion was embodied in a letter to Raeder, and Raeder turned this letter over to Schniewind, "to investigate the military angles of the problem", and make appro-

¹ *Ibid.*, p. 315.

² *Ibid.*, pp. 315-316.

priate recommendations. (*Tr. pp. 4852-53.*) Schniewind was not present at Raeder's discussions with Hitler, Quisling, Keitel, and Jodl, but was kept fully informed of the tenor of these discussions by Raeder. (*Tr. pp. 4857-58.*) Schniewind made a second, "exhaustive study about the whole Norwegian problem", at the end of 1939, or the beginning of 1940, which, "was transmitted to the OKW". (*Tr. pp. 4860-61.*) When the special working staff to develop the operational plans was set up, the navy was represented by Captain Krancke, and Schniewind saw to it that the naval war staff furnished Krancke with all necessary information on the naval aspects of the proposed operation. (*Tr. p. 4862.*) Schniewind, like Raeder, received the first operational directive, covering the invasion and occupation of both Denmark and Norway, early in March 1940 (*Tr. pp. 4865-67*), and thereafter, "the naval war staff gave the corresponding directive to the subordinate agencies of the navy". (*Tr. p. 4868.*)

Schniewind, like Raeder and the other defendants before the IMT, defends the occupation of Norway on the ground that it was a "preventive measure" to forestall a British occupation (*Tr. p. 4872*), despite the fact that the entries in the navy war diary in October 1939, contain no indication whatsoever that fear of a British move was a factor at that time. (*Tr. p. 4853.*) This contention was fully considered and rejected by the IMT.¹ Furthermore, whatever might be said in this regard with respect to the occupation of Norway, Schniewind admitted here, in reply to a question by Judge Hale, concerning the occupation of Denmark, that, "even today, I do not know any international law justification for this matter". (*Tr. p. 4918.*) As the IMT stated:²

"No suggestion is made by the defendants that there was any plan by any belligerent, other than Germany, to occupy Denmark. No excuse for that aggression has ever been offered."

In the course of its opinion convicting Raeder on the charge of crimes against peace, the IMT further stated:³

"Raeder received the directives, including the innumerable postponements, for the attack in the west. In a meeting of 18 March 1941, with Hitler, he urged the occupation of all Greece. He claims this was only after the British had landed and Hitler had ordered the attack, and points out the navy had no interest in Greece. He received Hitler's directive on Yugoslavia."

Schniewind likewise received the directive in connection with the attack in the west, and the naval war staff issued appropriate

¹ *Ibid.*, pp. 206-209, 316.

² *Ibid.*, p. 208.

³ *Ibid.*, p. 316.

orders to the subordinate naval agencies to support the army by occupying certain Dutch islands and by laying mines to block off the Dutch coast. (*Tr. pp. 4885-86.*) He attended the meeting of the military leaders with Hitler on 23 November 1939, (*Tr. p. 4884*) at which Hitler declared that he would attack France through Belgium and Holland and that a, "breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won". Schniewind received the directives of December 1940, for the invasion of Greece, and of 27 March 1940, for the occupation of Yugoslavia; German naval units accompanied the army into Greece to deal with shipping matters in the Greek ports. (*Tr. pp. 4892-94.*)

As the IMT found, Raeder opposed Hitler's plans to invade the Soviet Union, and endeavored to persuade Hitler to change his mind.* There is no reason to doubt Schniewind's testimony that he shared Raeder's views. (*Tr. pp. 4897-4900.*) But Schniewind, like Raeder, received the "Barbarossa" directives, and the navy took the, "necessary preparatory measures". (*Tr. p. 4898.*)

Lehmann

The defendant Lehmann was the director of the legal department of the OKW from the summer of 1938, until the end of the war; in 1944, he was given the military rank of Generaloberstabsrichter. Although he had no strategic or tactical responsibilities, the record clearly shows that he was well informed in advance concerning the armed forces' war plans in order that he might take whatever preparatory measures were necessary in the legal field. Thus, when preparations for the attack on Poland were being made, Lehmann received a copy of a decree dated 3 April 1939, issued by Warlimont's office on the subject of, "Command Authority in the Operational Zone of the Army." (*C-120, Pros. Ex. 1079.*) The purpose of this decree was to define the authority of the various governmental agencies, both military and civilian, which would be carrying on activities in the operational zone. Similarly, only two days after Hitler decided to invade Yugoslavia and a week before the invasion actually began, Lehmann received a decree signed by Keitel entitled, "Special Instructions Concerning Directive No. 25." (*1746-PS, Pros. Ex. 1180.*) Directive No. 25 was the document in which Hitler had first announced that Yugoslavia had to be "smashed as rapidly as possible." (*C-127, Pros. Ex. 1187.*) The Keitel decree received by Lehmann stated that, "The Yugoslavian territory to be occupied by German troops in the course of the operation will be treated as an operational area of the army." The German rules

* *Ibid.*

for court martial procedure subjected all foreigners and Germans in the operational zone to court martial jurisdiction for offenses committed there. (*Lehmann 72, Lehmann Ex. 2.*) It is clear that the Keitel decree was sent to Lehmann so that he would be advised in advance that he could expect a good deal of new business in his legal department as a result of the Yugoslavian campaign, and so that he could prepare himself to take care of it. He was being asked to do in his own sphere exactly what the field commanders were being asked to do in theirs—to take whatever steps were necessary in order to carry out the aggressive war against Yugoslavia.

Lehmann was up to his ears in preparing for the invasion of Russia. He said that Keitel told him in March that, "there is a possibility of war with Russia." On 30 March, Hitler announced at a conference with the military leaders that commissars would be liquidated after capture in the forthcoming Russian campaign, and also that neither soldiers who committed offenses against indigenous civilians, nor civilians who had committed crimes against armed forces personnel would be tried by court martial. Shortly after this, according to Lehmann, he received a telephone call from Keitel's office and was told to write a draft of an order putting the latter intention into effect. This was the beginning of the infamous Barbarossa Jurisdiction Order. Lehmann worked on this during most of the month of April. He conferred with Keitel, Jodl, Warlimont, and Mueller and finally produced a version which was acceptable to Hitler. During this same period, he received the OKW draft of the Commissar Order and made some changes in that. Lehmann turned out his third draft of the Barbarossa Jurisdiction Order on 28 April, and he had talked to Keitel and Jodl about the Commissar Order earlier than that. (*Tr. p. 8064.*) Lehmann knew that Russia was shortly to be invaded, he knew that the German occupation of Russia was to be characterized by practices prescribed by the OKW which flagrantly violated international law, and he worked with might and main for three months before the campaign began to concoct the prescriptions.

The foregoing are merely samples of the type of activity in which Lehmann was engaged in preparing for aggressive wars. The prosecution suggests that the case against Lehmann under counts one and four is almost exactly analogous to the case which was established against Funk before the IMT. Funk, for example, was convicted of making economic preparations for the aggressive war against the Soviet Union by making plans for the economic exploitation of the occupied Soviet territory and by planning for the printing of ruble notes in Germany in order to

serve as occupation currency. Lehmann's activities in the legal field exactly paralleled Funk's in the economic field. Neither Funk nor Lehmann was a leading figure in the origination of aggressive war plans, but each took a substantial part in his own field.

Summary

We believe that, by dealing with the proof under counts one and four concerning Leeb, Schniewind, and Lehmann, we have met and disposed of all the defenses which have been raised under these counts. For the most part, the pattern of defense has changed very little from defendant to defendant. Thus, the defendant Kuechler more or less parroted Leeb's highly implausible description of the meeting with Hitler of 22 August 1939, at the Obersalzberg. Kuechler, indeed, quite outdid his former commander in chief by advancing the preposterous suggestion that the nonaggression pact between Germany and Russia made a war between Germany and Poland very improbable, "because it did not seem to me that it was possible for us to conclude a treaty with Russia and a few days thereafter, attack a state which was on more or less friendly terms with Russia". (*Tr. p. 2801.*) Just as Leeb claims that he "did not ponder" the moral or legal significance of the German occupation of Bohemia and Moravia, so Kuechler brushes it aside as "a political measure and it was outside my scope to judge it." (*Tr. p. 2795.*) During the western offensive, Kuechler's Eighteenth Army smashed through Belgium and Holland and ultimately captured Paris. When asked on cross-examination whether he could justify the violation of the neutrality of the Low Countries, he could only reply (*Tr. p. 2944*):

"It was a political measure which I really didn't think about at all. I really don't know what I thought about it then.
* * * I think in a political connection, I really didn't think about it at all."

Such testimony reveals a brazen indifference to the life, liberty, and well-being of entire nations that is almost as repellent as the very acts with which these men are charged. It is exasperating even to spend time commenting on statements such as these. Certainly Leeb did not consider this wanton, outrageous, and murderous attack on peaceful and harmless neighboring countries a "political matter outside his scope," when he sent his memorandum to Brauchitsch in October 1939, and wrote therein (*Leeb 39a, Leeb Ex. 39*):

"One cannot help thinking that England and France are actually waiting for us to do them a favor by attacking, or even

violating, Belgium's and Holland's neutrality. The fact that the French took no action whatsoever in the face of the initial massing of Army Group B formations—although they must have known it for a long time—proves how much they would welcome such an attack.

“Such an attack would provide England and France immediately with the one thing they haven't got up to now, i.e., a forceful propaganda slogan, and this would even be the best one imaginable: to defend the Fatherland—even if it is only the Belgian one! No Frenchman will fail to yield to such a slogan; everyone will fight for the homeland as soon as it appears to be threatened by the penetration of German troops into Belgium.

“The British warmongers would like nothing better than our attack which would give them an excellent excuse to brand us as the instigators of unrest in Europe. More than ever before will they demand that this instigator be destroyed—and they will be heeded, to be sure!”

* * * * *

“Any violation of Belgium's neutrality is bound to drive that country into the arms of France. France and Belgium will then have one common foe: Germany, which for the second time within 25 years, assaults neutral Belgium—Germany, whose government solemnly vouched for and promised the preservation of and respect for this neutrality only a few weeks ago!

* * * * *

“If Germany, by forcing the issue, should violate the neutrality of Holland, Belgium, and Luxembourg, a neutrality which has been solemnly recognized and vouched for by the German Government, this action will necessarily cause even those neutral states to reverse their declared policy towards the Reich, which up till now showed some measure of sympathy for the German cause.”

This document is a tribute to Leeb's intelligence but, in the light of subsequent events, it can hardly serve as a testimonial to his character. Rather it is an indictment, not only of Leeb, but of nearly every defendant in the dock. It conclusively established that these men knew that what they did was wrong. There is, we suggest, no document in the entire record which is more damning.

* * * * *

2. EXTRACTS FROM THE CLOSING STATEMENT FOR DEFENDANT VON LEEB*

DR. LATERNER: May it please the Tribunal.

One of the most brilliant personalities of modern times, the French poet and statesman Vicomte Francois de Chateaubriand, [1769–1848], after the close of the Napoleonic era in 1814, coined the following phrase:

“Immortal glory is due to the allied monarchs, who gave the world such an example of moderation in victory. What crimes had they to avenge! But they were great enough not to commit the mistake of confusing the French nation with the tyrant who suppressed it.”

It is one of the peculiarities of human history that typical situations repeat themselves. Again the world is at the end of an era of warfare which was given its character by the demoniacal personality of a dictator. Crimes of an extent hitherto unknown—like the murdering of the Jews—demand requital. Since the man who committed them escaped from the responsibility, the temptation is greater than ever to avenge them, without regard to legal responsibility and personal guilt, on those whose fate it was to have held outstanding positions in the vanquished state.

The long series of the postwar trials against leading German civil servants, military commanders, and men of business contains sufficient confirmation of this human craving for revenge at any cost, and above everything, the speeches of the American prosecution here in Nuernberg will forever be documentary evidence of this. In addition there is the obvious endeavour to vilify certain strata of the vanquished nation, in particular its military leaders.

The trial before the International Military Tribunal, which really was conceived for the purpose of replacing in international politics the principle of might with that of right, has obviously inaugurated a development at the end of which the vanquished party in a war is annihilated in due form of legal proceedings, solely for the reason of having lost the war. In many quarters the impression prevails that this point has been already reached. The Chief of the British General Staff, Field Marshal Viscount Montgomery, grasped the situation very clearly and realistically when, on 10 July 1948, during a conference with French commanders in Paris, he declared:

“And you know that since the Nuernberg trials it is a crime

* Complete closing statement is recorded in mimeographed transcript, 10, 11 August 1948, pp. 9621–9697.

to start a war and not to win it. The vanquished generals will be judged and hanged.”

These monarchs 130 years ago won fame because they took to task only the guilty party, and did not persecute those who were themselves his victims. You, Your Honors, will be rewarded for your difficult task only by the knowledge of having served your country’s high traditions of law and justice, one of the highest ethical values of humanity.

Seen from a legal standpoint, the primary question involved in these trials is whether and to what extent the occurrences, adduced in the largest scope by the prosecution, actually were crimes. Then, however, the principal problem appears to be to decide, with a clear eye for true justice, the connection of the several defendants with these alleged crimes, and to clarify their responsibility for acts which the authority of the state executed without or frequently even against their will.

In accordance with these viewpoints I conducted the defense for Field Marshal von Leeb, whose character I beg you to keep in mind constantly during your final evaluation of the case, without being influenced by the prejudices and incredible allegations of the prosecution.

* * * * *

Before entering on a discussion of the facts with which the prosecution charges Field Marshal von Leeb from the point of view of participation in wars of aggression, I have to deal with the legal questions pertaining to this count of the indictment. (*Tr. pp. 9623-9644.*)

It is obvious, that of all the objections to the London Agreement and Control Council Law No. 10 which exist from the legal point of view, those are the most serious which refer to the punishment of the so-called aggressive war. They are mainly based on the principle that no one may be punished because of an act which was not a crime already at the time of its commission.

The prohibition of a punishment resulting from an *ex post facto* law is one of the fundamental principles of criminal law, and is recognized by all civilized nations. For a long time it has proved to be one of those generally valid principles, which are the fountainhead of international law, and which were adopted into international law from the systems of intra-state law where it was developed.* (*Case No. 7, Tr. p. 10427.*)

In the United States this prohibition is guarded by the Constitution, and in Germany too, it was guaranteed by the Reich Constitution of 1919. After it had been somewhat breached by the

* United States vs. Wilhelm List, et al., Case No. 7, vol. XI. See judgment.

National Socialist legislation, it was one of the first acts of the Control Council to re-instate this principle with its Proclamation No. 3, dated 20 October 1945.¹

The American Military Tribunal V explained in its sentence of 19 February 1948, that even a victorious nation could not legally deviate from the prohibition of punishment based on an *ex post facto* law. From this the Court deduced that any tribunal which had to consider an indictment based on Control Council Law No. 10, has the obligation to investigate the extent to which this law exclusively contains previously existing law.² (*Case No. 7, Tr. p. 10432.*)

In conclusion the Court stated that *everything in Control Council No. 10 that exceeded previously existing law represented an application of might and not of right.*

There should be no doubt, that the attempts of the International Military Tribunal to prove that the London Agreement is the expression of the international law existing at the time of the creation of the Agreement, are not convincing, and this least of all when the sentence deals with the punishment of aggressive war. Particularly pertinent to this matter is the statement of Professor Kelsen,³ (*Case No. 6, Tr. p. 14547 ff*), in which he states the following:

“That the London agreement is only the expression, not the creation of this new law is the typical fiction of the problematic doctrine whose purpose is to veil the arbitrary character of the acts of a sovereign lawmaker.”

As a matter of fact a great gap separates the political act of renouncing war as an instrument of national politics, as expressed in paragraph 1 of the Kellogg-Briand Pact of 27 August 1928, from paragraph 6 (a) of the London Agreement, and Article II, paragraph 1 (a) of the Control Council Law No. 10, which insert the crime against peace into international criminal law as a new conception. A gap which apparently could not be filled by the law, but only by the might of the victorious nations.

Just what is lacking between the two points becomes evident, when one recalls the statement made by the Dutch Government in its note of 21 January 1920, with which it declined the extradition of the former German Kaiser:⁴

“If in the future the League of Nations should create a new international administration of justice, which would have the

¹ Proclamation No. 3, II, 2: “Criminal responsibility shall be determined only for offenses provided by law.”

² United States *vs.* Wilhelm List, *et al.*, *op. cit. supra.*

³ As cited by Eduard Wahl's brief regarding, “Basic Legal Questions.” United States *vs.* Carl Krauch, *et al.*, Case No. 6, vols. VII and VIII.

⁴ *Ibid.*

right to adjudicate facts in case of a war, *which by a previously prepared statute have been branded as crimes, and as such are threatened with sanctions*, then the Netherlands will participate in this new order."

One searches in vain for such a *previously* prepared statute, which declares aggressive war to be a crime within the meaning of the criminal law, that is to say, as a crime resulting in criminal responsibility.

In the center of the argumentation pertaining to this question stands the Kellogg-Briand Pact, also known as the Pact of Paris. This pact was a political agreement of undoubtedly very great moral importance, but just as certainly it had nothing to do with the establishing of a crime, from which a criminal responsibility could be derived. A dispassionate glance at its text, particularly at paragraph 1, shows that at the time of its formulation the signatory powers considered the condemnation by the public conscience of the world to be the supreme sanction for a breach of this agreement. Furthermore, of course, those sanctions may occur which have always been recognized in cases of breach of international agreements and obligations, that is to say, in cases of offenses against international laws.

The International Military Tribunal drew the conclusion from the Pact:*

" * * * the solemn renunciation of war as an instrument of national policy necessarily involves the proposition that such a war is illegal in international law; and that those who plan and wage such a war with its inevitable and terrible consequences are committing a crime in so doing."

Of course I do not intend to deny that a war waged in violation of the Kellogg-Briand Pact represents a violation of international law. It may also be admitted that the great political and moral importance of the renunciation of war, the consideration of the public conscience of the world, and to a certain extent reasons of rhetorics may make it desirable to speak of international crimes rather than of international delinquencies in cases pertaining to violations of the Pact, although the former expression was avoided in the Pact itself. However, one cannot accept the duplicity of the meaning of this expression, as it is accepted in the verdict of the International Military Tribunal, and waive the bringing of the proof that the Kellogg-Briand Pact—as a reaction to the violation of its principles—introduced a crime in the meaning of the criminal law into the international law. This proof was not produced in the verdict of the International Military

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 220.

Tribunal, nor anywhere else—*because it cannot be produced*. On the contrary, it can be demonstrated that the so-called crime against peace—as a supposedly criminal act—only penetrated the perception of the responsible statesmen in connection with the London Agreement.

One cannot argue, as did the verdict of the International Military Tribunal, that also the Hague Convention of 1907, neither expressly stated that certain actions were crimes, nor created courts for their trial, and that nevertheless its violation constitutes crimes, which are punishable as violations of the laws of warfare. This argument does not take into consideration the *basic* difference which exists between the Kellogg-Briand Pact of 1928, and the Hague Convention, with regard to the question of criminal responsibility. The criminal responsibility for certain wartime actions is not based on the Hague Convention for Land Warfare. These actions are crimes in the first place either according to the intra-state legal systems of the civilized nations, e.g., murder and looting, or, as for instance espionage and treason, they are based on the old common law of war, from where they were absorbed into the Articles of War and the Martial Laws of the belligerents. The Hague Convention for Land Warfare did *not introduce* the criminal responsibility for such action into the international law, but it has formulated and expressed the suppositions in view of which this criminal responsibility is to occur. These concrete bases for a criminal punishment, which form the background of the Hague Convention, are on the other hand, missing in the case of the so-called crimes against peace. The Kellogg-Briand Pact, as well as the other international declarations which were made for the purpose of condemning war as an instrument of national politics, was a purely political act, in connection with which obviously none of the signatories *at that time* thought of a criminal responsibility.

The interpretation given to the Kellogg-Briand Pact by the International Military Tribunal also derives no support from the fact that aggressive war had previously been designated as an international crime in drafts for international agreements and in international declarations. The expression international crime has more than one meaning, and it does not permit the conclusion that those who wage an aggressive war commit a crime from which a criminal responsibility results.

Regarding the Geneva Protocol of 1924, and the resolution adopted in the Plenary Session of the League of Nations held on 24 September 1927, in which aggressive war is called an inter-

national crime, Professor Kelsen has undertaken a clarification. In this connection he says the following:¹

“An illegal war may be called an ‘international crime’, and has been so called in the Geneva Protocol of 1924 for the Pacific Settlement of International Disputes, and in a resolution of the Eighth Assembly of the League of Nations (but not in the Kellogg-Briand Pact). This term, however, does not mean—as the International Military Tribunal erroneously declares in its judgment—“that those who plan and wage such a war, with its inevitable and terrible consequences are committing a crime in so doing’.”

The same opinion is expressed by the American Professor Radin:²

“The word ‘international crime’ used about an aggressive war in the Geneva Protocol of 1924, cannot be rated higher now than it was rated then, as a rhetorical term—a noble rhetoric, to be sure—but not a term with definite legal content.”

Of particular importance is the interpretation made by the Polish Delegate Sokal in his committee report about the Geneva Resolution of 1927. In this resolution it was stated that aggressive war could never be the means of settling international differences, and that it therefore is an international crime. With regard to the interpretation of this statement Sokal said in his report about the proceedings of the 3d commission:³

“Although there was agreement regarding the opinion that the draft of the resolution did not create a legal instrument in the true sense of the word, which increases the security in a concrete manner and which is self-sufficient, the 3d commission was unanimous in the evaluation of the great moral and educational importance of this project.”

“Tout en étant d'accord pour estimer que le projet de résolution ne constituée pas un instrument juridique proprement dit, augmentant de façon concrète la sécurité et suffisant a lui-même, la troisième Commission à été unanime à en apprécier la grande portée morale et éducative.”

These declarations which preceded the conclusion of the Kellogg-Briand Pact—none of which were ratified—are thus arguments *against*, rather than *for*, the criminal nature of war of aggression. Although they went further than the Kellogg-Briand

¹ Professor Kelsen: “Will the Judgment in the Nurnberg Trial Constitute a Precedent in International Law?” *International Law Quarterly*, vol. I, No. 2, summer 1947. As cited by Professor Wahl, *op. cit. supra*.

² Max Radin: “Justice in Nurnberg.” *Foreign Affairs*, April 1946, p. 381. As cited by Professor Wahl, *op. cit. supra*.

³ As cited by Professor Wahl, *op. cit. supra*.

Pact, and designated such a war as an international crime, it appears that at that time no one held the opinion that the outlawing of war created a new crime within the meaning of the criminal law.

As a matter of fact there is little point in going into the antecedents of the Kellogg-Briand Pact, as later official statements, and particularly the events occurring after its conclusion, clearly demonstrate the view held by the powers regarding its importance. After the conclusion of the Pact, the Foreign Affairs Committee of the Senate of the United States of America stated in a report submitted to the Senate in January 1928:¹

“The Committee is of the opinion that the Agreement does not provide for sanctions, either expressly or by implication. Should any signatory of the agreement, or any state which later joined, violate its regulations, there exists no duty or obligation on the part of the other signatories—either expressly or by implication—to undertake penal or coercive measures against the state violating the agreement. The result of the violation of the contract consists of the fact that it releases the other signatories of the agreement from all obligations arising from the contract towards the violator.”

On 8 August 1932, Secretary of State Stimson declared before the Council on Foreign Relations in New York:²

“The Kellogg-Briand Pact provides for no sanctions of force. It does not require any signatory to intervene with measures of force in case the pact is violated. Instead it rests upon the sanction of public opinion, which can be made one of the most potent sanctions of the world.”

Most important of all, after the conclusion of the Kellogg-Briand Pact of 1928, a number of wars were waged without the question of the criminal responsibility of the statesmen involved being raised at that time. I refer to the war between Bolivia and Paraguay, the so-called Chaco War of the year 1934, to Italy's attack on Abyssinia, to the war waged by Japan against China. Professor Radin has stated the following with regard to the attitude of the powers toward these wars:³

“If the violation of the Kellogg-Briand Pact or of the Geneva Protocol constitutes a crime, either for the nation or for the persons instigating it, then the conduct at the time of all the powers that joined in creating the Tribunal at Nuernberg puts them in the unfortunate light of having acquiesced in what they

¹ Ibid.

² Ibid.

³ Radin, *op. cit. supra*.

now denounce as criminal. No official protest was made by those powers, when acts violating the Pact were committed. The personal indignation of such high minded men as Mr. Stimson, Secretary of State, when Japan invaded Manchuria, was shared, so far as our records go, neither by the President nor the Congress. And if it was shared by the majority of the people, there is abundant reason to hold that at that time no substantial number of Americans would have approved of war on Japan because of it.

“Did the United States, did Great Britain, France, and Russia become accessories after the fact in these crimes when they declined to treat them as crimes and continued close relations both with the nations that had committed them and the persons who had instigated them? It is hard to understand why that conclusion does not follow.”

As a matter of fact, one of the signatories of the London Agreement and Control Council Law No. 10 was involved in two wars during the period from 1939 to 1941 under circumstances which would have had to raise the question of criminal responsibility, if aggressive war were actually generally recognized as an international crime in the sense here alleged by the prosecution.

And right now we are again witnesses of the outbreak of a war, which of necessity represents a breach of the principles expressed in the Kellogg-Briand Pact by one side or the other. We are not aware that in connection with the war in Palestine the question of the criminal punishment of the guilty persons is being raised. And we cannot reasonably expect this either, for quite obviously the London Agreement and Control Council Law No. 10, at least insofar as they deal with aggressive war, are *ex post facto* laws, that is to say, so-called bills of attainder sentences in the form of laws which subsequently punish a certain group of persons for a state of affairs which was already concluded at an earlier time.¹ The argumentation of the International Military Tribunal, that it would be unjust to permit these persons to go unpunished, cannot justify such a misuse of the legislative power.

The attempts to disguise the *ex post facto* nature of these two laws by means of a subsequent, artificial interpretation of the Kellogg-Briand Pact have been characterized in an unequivocal manner by the Harvard Professor Manley O. Hudson:²

“It is difficult to conceive of the possibility of making substantial progress in the development of international law unless

¹ As cited by Professor Wahl, *op. cit. supra*.

² Professor Manley O. Hudson, “Integrity of International Instruments,” in *Annals of International Law*; vol. 42, Copy 1, January 1928, p. 106. As cited by Professor Wahl, *op. cit. supra*.

a scrupulous respect obtains for the integrity of international instruments. Yet, a tendency now seems to prevail in some quarters to undermine that respect by torturing the meaning of great international instruments and by forcing them to serve purposes for which they were never designed, purposes at variance with the desires entertained by governments when the instruments were brought into force. Evidence of this tendency was supplied by the International Military Tribunal at Nuernberg when it gave a spurious application to provisions of the Paris Treaty for the renunciation of war as instrument of national policy.”

It is furthermore interesting, that even the various statements made by the Allied governments and statesmen since the end of 1941, at conferences and on other occasions regarding the punishment of the responsible persons of the Axis Powers, did not contain any indication regarding the punishment of the aggressive war. During his final speech in the I.G. Farben trial¹, pertaining to the “Basic questions of Law,” Professor Eduard Wahl—of the University of Heidelberg—explained the reasons for this by making reference to the recently published critical article by Professor Finch about the Nuernberg trials. In this article Professor Finch referred to the fact that the crime against peace had not been originally anticipated by the Allies as a count of the indictment, but that in this connection, during the drawing up of the London Agreement, the very comprehensive conception of the Russian expert on international law, Professor Trainin, exerted itself to a large extent.

The American Military Tribunal in Case No. 3 *drew the consequences from the collapse of the fiction that the London Agreement and Control Council Law No. 10 were merely the expression of previously existing international law, and openly disassociated itself from the ex post facto principle.*² The Tribunal states that this principle could not be applied in international law in the same manner as it is applicable in intra-state law, under the mandate of the Constitution. It will suffice for a finding of guilty.³—

“ * * * that the accused knew or had to know, that in matters which were contrary to international law he became guilty of participation in a system, organized by the State for injustice and persecution, which system insulted the social feeling of humanity, and that he knew and had to know that he would be punished in case of his arrest.”

¹ United States vs. Carl Krauch, et al., Case No. 6, vols. VII and VIII.

² United States vs. Josef Altstoetter, et al., Case No. 3, vol. III, see judgment.

³ Ibid.

But already the verdict in Case No. 7 pronounced on 19 February 1948, again secured for that basic principle of law the importance due it, by stating that a punishment by virtue of an *ex post facto* law would be an application of power and not of law. From this, results that the last quoted sentence from the verdict in Case No. 3 contains, it is true, a certain restriction of this power, but can by no means claim to be the expression of a rule of law on which a punishment could be based.

Even if one assumed for the sake of argumentation that the London Agreement and Control Council Law No. 10 are, as far as wars of aggression are concerned, to a certain extent the expression of preexisting international law, this could obviously only apply to the small circle of those persons who had to decide on the initiation and waging of the war, or who at least exerted an influence on this decision. Professor Kraus rightfully stressed in his comment on the Control Council Law No. 10¹ that, even according to the provisions of this law, only those can be guilty of waging a war of aggression who decide as to whether the war will be continued or discontinued. In this connection Professor Kraus referred to the opinion of the verdict of the International Military Tribunal against Albert Speer, where it is said:

“His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involved engaging in the common plan to wage aggressive war as charged under count one or waging aggressive war as charged under count two.”

Professor Kraus rightly derived from this, that this rule pertains not only to manufacturers, but that it must also be applied to members of the German Armed Forces.

The Kellogg-Briand Pact was a political treaty which was to influence the attitude of the responsible statesmen. Taking into consideration its wording or the statements made with regard to it by politicians, or calling to mind the conceptions which were expressed during the deliberation of this Pact in the American Senate², it seems to be absurd to infer from this Pact that it would entitle the victor nation to bring the military commanders of the other side to trial because of the crime of waging a war of aggression. The military commander complies with the orders of his superiors, just as does every soldier. The decisions on war and peace are made by political agencies, on the resolutions of

¹ Ibid.

² See supplement to the final plea of Professor Jahrreiss in the trial before the International Military Tribunal, Trial of the Major War Criminals, *op. cit. supra*, vol. XVII, p. 458 ff. particularly footnotes.

which he cannot exert any influence—least of all in a totalitarian state—and which he is not entitled to examine.

The principle expressed by the American Supreme Court on 29 May 1931, in its decision in the Mackintosh Case with reference to an ordinary citizen, applies above all to a soldier and officer whose absolute obedience is the basis for the armed forces of every state. Mackintosh, a Canadian professor of theology living in the United States, who had applied for naturalization in the United States, was only prepared to sign the loyalty clause with the reservation that he would be entitled to decide himself whether a war which might be waged by the United States would be justified or not within the meaning of the Kellogg-Briand Pact. The Supreme Court declared in its decision—

“ * * * that the American Law cannot grant to the citizen the right to refuse to the State moral or armed support, if, in his opinion, a war would not be justified.” * (*Case No. 6, Tr. p. 14547.*)

The principle that a criminal guilt of the defendant is a prerequisite of every punishment is one of the general principles of criminal law—of international law as well as of the intra-state criminal law of civilized nations. Having already set forth that the substantive fact of a preexisting international law, which limits the extent and efficacy of the London Agreement and of Control Council Law No. 10, does not furnish the possibility of inferring a criminal responsibility of the officers under trial because of crimes against peace, I should like to deal briefly with the question of a criminal guilt, merely for the sake of argumentation.

With respect to the leading men of National Socialist Germany indicted before the International Military Tribunal, this Tribunal could state with a certain right in its judgment:

“Occupying the positions they did in the government of Germany, the defendants, or at least some of them, must have known of the treaties signed by Germany outlawing recourse to war for the settlement of international disputes.”

On the other hand, the German officers who are on trial here and who were engaged in other spheres of tasks, did not belong to that circle who must have been more or less familiar with the contents of these agreements and with their bearing. Then, applying the rules expressed in the verdict of the American Tribunal in Case No. 3 in the following wording:

“that the defendant knew or must have known that he would be punished if he were arrested.”

* As cited by Professor Wahl, *op. cit. supra.*

The question immediately arises :

How could any of the defendants ever have thought of being taken to account because of a crime against peace, if he, as a soldier, complied with the orders given to him by his government in virtue of its decision on war or peace? Neither in the declarations made by official agencies nor in the practice of international relations, as set forth by me, was the conclusion ever drawn from the Kellogg-Briand Pact that a violation of this pact would involve a criminal responsibility. Just as little did the declarations and threats made during the last war by the Allies concerning a criminal prosecution of members of the Axis nations contain even the least hint pertaining to the so-called crime against peace.

How could the defendants have taken consequences into consideration which had not even occurred to the statesmen of the other side?

How could they have known that after the termination of this war, under the influence of a Russian scientist and by a forced misinterpretation of the original meaning of the Kellogg-Briand Pact, this so-called crime against peace would be created and retrospectively applied against them?

For the rest, we are at present in a situation where we have an excellent criterion for the question whether that point of view, asserting a criminal responsibility of military leaders with regard to a crime against peace, is justified or not.

Necessarily as already stressed by me before, at least one of the two parties in the present war in Palestine must have violated the principles of the Kellogg-Briand Pact. With regard to this I refer to the statement of the American Secretary of State Stimson in his great speech made before the Council on Foreign Affairs on 8 August 1932, about "The Pact of Paris, Three Years of Development:" *

"War between nations * * * is an illegal thing. Hereafter, when two nations engage in armed conflict either one or both of them must be wrongdoers—violators of this general treaty law."

From the rules applied by the prosecution against the defendants in this trial must evidently also result a criminal responsibility of the military leaders of the guilty party in Palestine. I think, however, that there would be great surprise if anybody would seriously allege their criminal responsibility. Could there be furnished a better proof at all for the arbitrary character of the London Agreement and Control Council Law No. 10—at least

* As cited by Professor Jahrreiss, *op. cit. supra*.

as far as they want to declare the German military commanders punishable because of the so-called crime against peace? Above all this confrontation proves that the London Agreement and Control Council Law No. 10 are nothing but punitive sentences, externally made up as laws, which attempt subsequently to punish a certain circle of persons because of facts which occurred in the past.

Now, if we examine the facts by which the prosecution want to reach the conclusion that Field Marshal von Leeb took part in crimes against peace, we then come to the following result:

Field Marshal von Leeb was in retirement in Munich at the time Austria was occupied.*

As shown by the evidence of his personnel files he was put at the disposal of Corps Headquarters VII in Munich on 1 July 1938. The prosecution is in error if it believes that from this it may draw the conclusion that Field Marshal von Leeb had already at that time been utilized once more. (*Tr. pp. 2434-35.*) The making available of an officer was in the German Army that act by which a retired former officer, who was not a member of the officer corps in the reserve, was on paper again brought into a connection with the army, by reason of which he might again be drawn into active service in case of need. This making available occurred in the case of Field Marshal von Leeb only at the end of September 1938 (*Tr. p. 2300*), when the command over the 12th Army was assigned to him for a short period of time. With the 12th Army he took part in the occupation of the Sudetenland, which by reason of the Munich Agreement was peacefully carried out with the assent of Great Britain and France.

Field Marshal von Leeb did not participate in the planning of Case Green, nor did he take part in any conferences which dealt with this operation neither in the conference at Berchtesgaden on 10 August 1938, nor, as shown by the statement made by General Halder (*Tr. p. 2084*), or in any other one which preceded the occupation of the Sudetenland. In the preparation of the deployment of the 12th Army, prepared by reason of operational orders issued by the OKH in the summer of 1938 by a general staff officer assigned by the OKH under the title, "Working Staff Leeb," Field Marshal von Leeb personally participated only to a very minor degree.

During his cross-examination, Field Marshal von Leeb was told (*Tr. p. 2443*) that he had received orders to hurry to Bruenn [Brno] with his army, that is to invade Czech territory beyond the actual Sudetenland borders. This was supposed to be evident

* Occupation of Austria: 12 March 1938; retirement of Field Marshal von Leeb, 4 February 1938.

from a memorandum about a conference which took place between Hitler, Field Marshal von Brauchitsch, and General Halder in Nuernberg on 9-10 September 1938. General Halder testified in contrast to this (*Leeb 156, Leeb Ex. 33*), that an order of that kind was never issued, and that Field Marshal von Leeb did not take part in this conference. Field Marshal von Leeb was at the time in retirement at Munich.

The Sudetenland was occupied, as mentioned already, due to an international agreement. The prosecution, therefore, with good reason refrained from mentioning these events as crimes against the peace in the trial before the International Military Tribunal. It is not possible either to make a difference between the occupation of the Sudetenland and the preparatory considerations which preceded the Munich Agreement, as the prosecution seem to endeavor in this case. Measures merely drafted on paper but never executed, can be of no legal importance.*

The Munich Agreement was, besides, only the conclusion of a development which guaranteed right from the start a peaceful settlement of these strained relations from two different angles. Great Britain and France had decided to prevent a solution of the Sudeten question by force, and on the German side, military forces of resistance, as mentioned above, had already taken the necessary steps together with the OKH to prevent the outbreak of a possible war in case of need by means of a *coup d'état*.

After the occupation of the Sudetenland had been concluded in the middle of October 1938, Field Marshal von Leeb again went into retirement and devoted himself in Munich to his private studies on the sector of family research up to the end of 1938 (*Tr. p. 2301*).

Therefore he did not participate in the planning, preparation, and accomplishment of the *occupation of Bohemia and Moravia*—the remaining part of Czechoslovakia (*Tr. p. 2301*).

Field Marshal von Leeb had nothing to do with the preparation and accomplishment of the campaign against Poland either. In the course of the summer of 1939, he neither took part in conferences, nor did he conduct any conferences himself. (*Tr. p. 2301*.) He was a civilian and heard about the situation only through the official news service of the papers and the radio. He was only informed about the fact that he would be detailed to the western front in case of war. (*Tr. p. 2284*.)

* In the "United Nations World," March 1948, Ellsworth L. Raymond, formerly Chief of the U.S. Army's Russian Economic Section writes: "The Soviet General Staff, headed by Marshal Alexander Vassilevsky under the personal supervision of Premier Joseph V. Stalin, has detailed operational plans for offensive and defensive wars, to meet any military emergency that may arise at any time. There is nothing belligerent in this fact. The general staffs of all armies are obliged to draw up such plans, their peacetime job being theoretical and practical preparation for war, whenever or wherever it may come, and whatever form it may take."

In August 1939, he was surprisingly ordered to Berchtesgaden, (*Tr. p. 2301*), where Hitler in a speech informed the high-ranking officers present of the political situation in regard to Poland. From Hitler's speech, Field Marshal von Leeb deduced that in this case, just as in the case of Czechoslovakia one year previously, it would not come to a war. (*Tr. pp. 2302-3.*) Hitler had stated that the negotiations would be continued. This impression of Field Marshal von Leeb may have been influenced by his desire for peace, and the same motive may also have influenced the impression gained by many other officers. General Halder has confirmed that the predominant impression was to the effect that a decision about peace or war had not been reached as yet. (*Tr. p. 1874.*)

The prosecution is under the impression that at the time, in August 1939, a warlike spirit prevailed in the German Officers Corps, exceeding that of a year previously during the Sudeten crisis. In contrast to this unproven allegation we have the impressive account which General Halder gave about the manifold endeavors made by the military leadership to have Hitler abstain from starting a war against Poland. (*Tr. p. 1872.*) Nothing is better suited to demonstrate the attitude of the military leaders against this war, and nothing shows better the abnormal conditions in which they found themselves in the National Socialist state regarding the dictator Hitler, than the fact that the Chief of the General Staff approached the ambassadors of the two probably main opponents of his own country so that they might cause their governments to remain steadfast. General Halder personally approached the French Ambassador Coulondre in this respect. He furthermore requested the British Ambassador, Sir Nevile Henderson, to voice to the German Government most drastically and unequivocally England's determination to wage war in case of a German aggression against Poland. (*Tr. p. 1872.*)

Also the Commander in Chief of the Army, Field Marshal von Brauchitsch, tried repeatedly to dissuade Hitler from waging war against Poland. This has also been proved by the testimony of General Halder. (*Tr. p. 1873.*)

As already mentioned by me, Field Marshal von Leeb had nothing to do with the carrying out of the campaign against Poland. I have dealt with this question in my opening statement already. (*Tr. pp. 1784-85.*) During the campaign against Poland, Field Marshal von Leeb was Commander in Chief of Army Group C in the West, with the independent mission to guard the western frontier of the Reich. (*Leeb 40, Leeb Ex. 34; Leeb 38, Leeb Ex. 35; Leeb 141, Leeb Ex. 36.*) He had received this mission due to the fact that he had always paid special attention to the problem

of the western defense. He is furthermore an internationally recognized authority in the field of operational and tactical defense.

There was no accord between the defense plans in the West and the operations against Poland in the east. General Halder made this quite obvious. There was only a transient connection. It was due to the fact that when an operation started in the East, one might also become acute in the West. The operations in East and West did not influence each other. Field Marshal von Leeb's task of defending the western frontier of the Reich against attacks was not affected by the course of the events in the east. The independence of the two operations is shown also by the testimony of General von Sodenstern (*Tr. p. 2548*). Prior to 1 September 1939, this witness was subordinated to Field Marshal von Witzleben as Chief of Staff of Army Group 2, which Field Marshal von Leeb took over on 1 September 1939, as Army Group C. (*Tr. p. 2536*.) The testimony of witness von Sodenstern shows (*Tr. p. 2548*) that neither Field Marshal von Witzleben as commander in chief, nor this witness himself, as chief of staff, were informed about Hitler's intentions of aggression against Poland, except for Hitler's hazy declaration of 22 August 1939. They had not received any information about operations intended against Poland, and no special preparations in connection with a possible conflict in the East had been made by Army Group 2.¹ (*Tr. p. 2549*.) This corresponded with the strategic law that military operations having different fronts influence each other only if there is a certain geographical proximity of the operations. Moreover, the efficiency of the German Army, and the capability of its command were a guaranty that Army Group C could perform its task of defending the West Wall even without special preparation.

On 3 September 1939, *Great Britain* and *France* declared war on Germany. The prosecution attempts to construe also from this fact an aggressive war on the part of Germany, and a crime against peace by the defendants. I believe it suffices if I refer in this connection to the statement which the American Chief Prosecutor, Justice Jackson, made during the trial before the International Military Tribunal during the forenoon session of 19 March 1946.² He then stated:

“We did not assert that the war against England was a war of aggression. The indictment says that the war against Poland constitutes a war of aggression.”

What the American chief prosecutor at that time said with regard to England, applies in the same way to the war against

¹ Peacetime designation of the army group stationed in Frankfurt/Main.

² *United States vs. Josef Altstoetter, et al.*, Case No. 3, vol. III, see judgment.

France. The two wars, therefore, are not considered wars of aggression in the judgment of the International Military Tribunal.

This is of significance for Field Marshal von Leeb, insofar as he only participated in the offensive against France, but had nothing to do either with the planning or the execution of the operations against *the Netherlands, Belgium, and Luxembourg*. (*Leeb 139, Leeb Ex. 43; Leeb 23, Leeb Ex. 44; Leeb 34, Leeb Ex. 45.*)

Of course the indictment says that Field Marshal von Leeb participated in the planning of the entire campaign in the west. For this purpose it is said that Field Marshal von Brauchitsch, on 7 October 1939, gave orders to Field Marshal von Leeb to prepare among other things the immediate invasion of France, Luxembourg, the Netherlands, and Belgium. The document to which the prosecution refers in this connection, however, shows that this assertion is in error. The order, dated 7 October 1939, (*2329-PS, Pros Ex. 1147*) to the Army Groups B and C reads as follows:

“Army Group B takes over on 10 October, 1200 hours the already previously named sector up to Mettlach, that is south of Trier, and Army Group B prepares an invasion into the Netherlands and Belgium, if the situation should require it.” *

On the strength of this order Field Marshal von Leeb (*Leeb 139, Leeb Ex. 43*), on 10 October, turned the indicated sector over to the newly arriving Army Group B. Thus, the order was executed as far as he was concerned. The sector of Army Group C since then was situated exclusively opposite French territory. (*Leeb 23, Leeb Ex. 44.*)

The campaign itself, in which one must distinguish between 2 sectors, started on 10 May 1940, with the offensive of the Army Groups A and B against Belgium, The Netherlands, and France. After these countries and the northern part of France had been occupied, and the Channel coast had been reached, both army groups wheeled towards the south. Only when they had come level with Army Group C, did the latter also attack French territory. Field Marshal von Leeb with the 1st Army broke through the Maginot Line southeast of Saarbruecken, and crossed the upper Rhine near Freiburg with the 7th Army. (*Tr. p. 2319.*)

We have heard of the decision of the military leaders to prevent a possible war by a *coup d'état* in the fall of 1938. And I already stressed the fact that in the fall of 1939, the Chief of the General

* The IMT judgment already had made the following statement: “On 7 October, General von Brauchitsch directed Army Group B to prepare ‘for the immediate invasion of Dutch and Belgian territory, if the political situation so demands.’” Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 209.

Staff approached the diplomatic representatives of France and Great Britain, in order to cause their countries to take a strong attitude towards Hitler, and thus to prevent the war.

In the case of the Western Campaign we also encounter such attempts, in the center of which there now are the Commander in Chief of the Army, Field Marshal von Brauchitsch, and the three commanders in chief of the army groups deployed in the West, the Field Marshals von Rundstedt, von Bock, and von Leeb.

On 11 October 1939, Field Marshal von Leeb, in his capacity as Commander in Chief of Army Group C, submitted to his immediate superior the Commander in Chief of the Army, Field Marshal von Brauchitsch, an exhaustive memorandum. (*Leeb 39a, Leeb Ex. 39.*)

Your Honors, I would like to dwell on this event more thoroughly on account of its importance, especially since it definitely does away with the invented thesis of the prosecution regarding the war desires of the generals.

If first you turn to the letter accompanying this memorandum, which Field Marshal von Leeb on 11 October 1939, addressed to Field Marshal von Brauchitsch, you will find there the following astonishing statements (*Leeb 39a, Leeb Ex. 39*):

“Grave anxiety for our future causes me to survey our present situation more closely.

“The measures in the theater of operations of Army Group B and the task with which the group had been entrusted show that a large scale attack by this army group is being prepared on Holland and Belgium, or, passing through those two countries and Luxembourg, on France.

“Supplementing my situation report of 7 October, I want to recommend to your special attention the enclosed memorandum, considering the serious situation in which we find ourselves which might decide our people’s future for several decades to come; in it, many subjects that have been dealt with are here-with repeated as a summary.

“I am sure that my views are shared by many others who take the trouble to assess the present situation.”

[Signed] LEEB

In the memorandum itself (*Leeb 39a, Leeb Ex. 39*) Field Marshal von Leeb maintained that Germany had no reason to attack in the West. He supports this conception by military reasons. He warns emphatically against the political consequences of violating Belgian and Dutch neutrality, which in particular would include the danger of the United States of America entering into the war.

Finally, he refers to the true sentiment within the German people, which is possessed of a sincere longing for peace.

This memorandum, which is now before the Tribunal, was sent by Field Marshal von Leeb not only to the Commander in Chief of the Army, but also to the Chief of the General Staff of the Army General Halder (*Leeb 35, Leeb Ex. 40*), and to the Commander in Chief of Army Group B Field Marshal von Bock.* (*Leeb 39, Leeb Ex. 41.*)

By this step Field Marshal von Leeb wished to contribute his share towards the possibility of a diplomatic settlement of the war.

Field Marshal von Bock, the Commander in Chief of Army Group B, also submitted a memorandum, as General Halder has confirmed, in which he spoke out against the attack in the West, and above all called attention to the violations of the neutrality of Belgium and Holland. (*Tr. p. 1887.*)

Field Marshal von Rundstedt, the Commander in Chief of Army Group A, was likewise opposed to the attack. (*Tr. p. 2314.*)

However, it was not left at that. As early as 31 October 1939, Field Marshal von Leeb directed an additional letter (*Leeb 33, Leeb Ex. 42*) to his immediate superior, the Commander in Chief of the German Army, which was intended to strengthen the latter in his idea of preventing the war in the west.

The text might be quoted in part :

“Dear Herr von Brauchitsch :

* * * * *

“In this fateful time I feel it urgent to tell you once more how much I appreciate the responsibility which rests upon you. Perhaps the fate of the entire German people depends on you in the next few days. For in the present situation, the Commander in Chief of the Army is called upon above all else to realize his view in every way, a view which is supported by the entire general staff and all thinking parts of the army. I hope that the commanders in chief of the other two branches of the Armed Forces do not close their eyes to this fateful hour. The *military* reasons which speak against the plans of the Fuehrer are clear.

* * * * *

“The whole nation is filled with a deep longing for peace. It doesn't want the impending war and regards it with no feeling

* I was unfortunately not in a position to supply proof that it was also submitted to the CinC of Army Group A, Field Marshal von Rundstedt; in my opinion one might be able to find it in the files deposited in Washington. [Footnote in closing statement.]

of sympathy whatsoever. If the Party offices report anything else, they are withholding the truth. The people are now looking forward to having peace result from the policies of their Fuehrer, because they feel quite instinctively that it is impossible to destroy France and England and that any more extensive plans must therefore be held in abeyance. As a soldier, I am forced to say the same.

* * * * *

"I am prepared to stand behind you personally to the fullest extent in the days to come and to bear the consequences, desirable or necessary."

Yours very truly,

[Signed] LEEB

Field Marshal von Leeb went still a step further. At his suggestion (*Tr. pp. 2311, 2542*) the commanders in chief of the three army groups serving in the west met in the beginning of November 1939, in the headquarters of Field Marshal von Rundstedt in Koblenz for a secret conference. Their purpose was also to find a way of preventing the western campaign. The three commanders in chief were worried because they knew that Hitler wanted the attack in the west. However, from the fact that the French did not undertake anything which indicated an attack on their side, they hoped that the war might be ended through diplomatic channels. Accordingly, they agreed to put off the commencement of the attack by pleading objections, in order in this way to give the diplomats the necessary time for a mutual *rapprochement*. (*Tr. p. 2313.*)

Field Marshal von Leeb wanted to go even further. At this meeting he proposed that the three commanders in chief make a joint representation to Field Marshal von Brauchitsch, but did not succeed in having this suggestion adopted. It was decided to adopt the method of making objections, in order to gain time in this way by putting off the attack. (*Tr. pp. 2314-15.*)

From the testimony of General von Sodenstern it appears (*Tr. p. 2543*) that Field Marshal von Leeb after his return from Koblenz entertained serious ideas of resigning the command of the army group. General von Sodenstern (*Tr. p. 2543*) made it clear to him at the time that such a resignation would not make any impression on Hitler, but that the army would lose one of its best commanders.

Hitler had no knowledge of the subject of that secret conference of the three commanders in chief in Koblenz, but he could not be in doubt about the disapproving attitude of his commanders

toward the question of the attack in the west. On 23 November 1939, he ordered the commanders in chief of the army groups and armies to the Reich Chancellery in Berlin and reproached them bitterly because of their attitude. (*Tr. p. 1882.*) He expressed his lack of confidence to them and declared literally:

“What kind of generals are these, whom I have to drive to war, instead of it being the other way around.” (*Tr. p. 2318.*)

It is alleged in the indictment that Hitler discussed the planned operation in the west with his commanders on every occasion. There can be no question of anything like that. Hitler made a speech. There was no opportunity to make objections. The examination of General Halder (*Tr. p. 1882*) revealed a very clear picture of those statements of Hitler. Hitler reproached the generals at the time with being the residue of a long outmoded trend of ideas which had already shown its incapacity in the First World War. By their ideas of chivalry in Poland they had shown that they had not yet grasped the spirit of the times. He indicated that he knew about the opposition in the army, and both at the beginning and end of his speech he threatened to destroy all those who offered him any resistance. On the same day, during a lively dispute with Hitler which concerned the opposition of the OKH to Hitler, Field Marshal von Brauchitsch requested to be relieved of his position. (*Tr. p. 1883.*) His request was not granted.

Even then the attempts of the military officer class to prevent the war in the west were not yet concluded. General Halder made an effort—in conjunction with the circle of opposition in the OKW and OKH—to form a front through a union of the senior commanders which would make it easier for the Commander in Chief of the Army to oppose Hitler. (*Tr. p. 1883.*)

Trusted men of the Commander in Chief of the Army, Field Marshal von Brauchitsch and General Halder visited the various commanders at the front. Acting for the Commander in Chief of the Army, General Heinrich von Stuelpnagel talked with Field Marshal von Leeb, asking him whether in the event of a dispute between the Commander in Chief of the Army and Hitler he would back up the former. Field Marshal von Leeb (*Tr. p. 2316*) replied that he would, even in the event that Field Marshal von Brauchitsch had very far-reaching intentions against Hitler. General Halder has testified as a witness that the reply of Field Marshal von Leeb was unconditionally in the affirmative. (*Tr. p. 1884.*)

All attempts of the military leaders to prevent the attack in the west, however, remained without success. Several reasons played a part in this. Hitler's apparent successes in the last two years—

the peaceful solution of the Sudeten question and the military success against Poland—had strengthened Hitler's prestige so much that the initiative of the forces of opposition was weakened. Quite apart from the implements of power behind him, it is a very natural thing that the oppositional strength of his opponents should necessarily grow feeble during the exciting events after November 1938. (*Tr. p. 1884.*) General Halder has stated the external reasons which hampered and prevented the formation of a united front behind the Commander in Chief of the Army before the western campaign. The overwhelming majority of the military commanders believed at the time that they could not successfully employ the mobile army, which was permeated by National Socialist elements, in a civil war against Hitler, in view of the armed enemy confronting them. An attack by the National Socialist followers would have swept the generals away if they had attempted to eliminate the successful and victorious Hitler. Thus, at that time the most diverse objections only succeeded in putting off the beginning of the attack until early in the year.

When the attack against the west began on 10 May 1940, it was clear that the hope for a diplomatic solution of the war had proved deceptive.

However, concerning the western campaign the verdict can be claimed on behalf of Field Marshal von Leeb that he did everything—and even more—incumbent on him to prevent this campaign against the Western Powers—and thereby the extension of the war in general. Without any consideration for his own safety, he far exceeded the bounds which existed for him as an officer under Hitler's dictatorship.

The arbitrary nature of that idea which attempts to hold military commanders responsible for vital decisions of the political leaders of the state from the point of view of a crime against peace appears nowhere more strikingly in evidence than where the problem of a preventive war exists.

In my opening statement (*Tr. p. 1789 ff.*) I have already left the question open as to whether the operations against the Soviet Union were actually preventive war by pointing out that in totalitarian states the final plans and intentions of the heads of state cannot be made clear. We do not know whether Hitler believed his assumption of a threatened attack by the Soviet Union, and we are equally unable to explain what plans the Russian heads of State had in mind at that time. In any case, in view of the situation at that time, the idea was not unreasonable that the Soviet Union would take advantage of the commitment of the military strength of the Reich in the West for the purpose of achieving objectives through an attack on Germany

from the rear, the nature and extent of which even the rest of the world has in the meantime been able to perceive.

Hitler's assumption of a threatened attack on Germany on the part of the Soviet Union was the logical conclusion to be drawn from any appraisal of Soviet Russian policy at the time. The last British Ambassador in Berlin, Sir Nevile Henderson, has expressed this in the following words in the language of diplomacy:

"But I always believed that Moscow's chief aim was to embroil Germany and the Western Powers in a common ruin and to emerge as the *tertius gaudens* of the conflict between them."*

This was confirmed by Stalin's statements at Yalta that he had signed the nonaggression treaty with Germany with the clear intention of breaking it. (*Schniewind SKL 601, Schniewind Ex. 118.*)

In this trial it is of no importance whether Hitler was personally convinced of the necessity for a preventive act. Our interest can only lie in determining what the attitude of the defendants was when they carried out his orders.

They had no reason to assume that Hitler was deceiving them in this respect, especially since the political and military situation spoke for the correctness of his theory of a preventive war.

The problem of a preventive war is determined, from the legal point of view, by the following two principles for the military commander:

First of all, the principle established in the Mackintosh Case by the American Supreme Court that the citizen cannot be given the right to refuse the State moral or armed help if, in his opinion, the war is not justified, must, according to common sense, apply especially in cases involving the execution by soldiers, officers, and commanders of orders given them by the national leaders as a result of their political decision regarding war or peace. The effect of this basic principle is reinforced in the case of a preventive war by the second rule which Secretary of State Kellogg established in his note dated 25 June 1928, explaining the pact named after him, namely that—

"Every nation * * * is alone qualified to decide if the conditions are such that it must go to war for reasons of self-defense."

How can one in such cases make soldiers, who are obligated by their oath to give particular obedience, responsible for purely political decisions made by the government of their country in a

* Sir Nevile Henderson, *Failure of a Mission*, (New York: G. P. Putnam's Sons, 1940), p. 259.

situation in which the existence of the entire nation was at stake? To give them the right to take the political decisions of their government under consideration and to make their compliance dependent on their own decision as to whether the war was just or not according to the Kellogg-Briand Pact, would mean the end of any kind of effective military organization for any nation.

Neither Field Marshal von Leeb nor any of the other officers accused here participated in the planning of a campaign against the Soviet Union (*Tr. p. 1901*) or had any kind of positive influence on Hitler's decision to go to war.

The war decision, that is the question of "whether or not," was made by Hitler, the armed forces were left out of it entirely. The competent experts of the OKW and OKH, but not one of the defendants, as is shown by the testimony of General Halder (*Tr. p. 1901*), participated only in the specialized technical development of the plan of operations, that is in the question of "how". This can be seen from the course of the events, as has been shown in this Court.

On 6 September 1940, the OKH issued an order (*NOKW-1774, Pros. Ex. 1197*) directing an extensive loosening up of the "closely massed forces" in the west by certain troop transfers to the interior of the Reich and towards the east. Field Marshal von Leeb was only affected by this order in that he had to take over the sector of Army Group B from Field Marshal von Bock in France, who had been transferred with a certain number of divisions to the East. Field Marshal von Leeb remained in the West until the end of October 1940, and was then transferred with his Army Group C to Dresden, from where he directed the training of the approximately 45 divisions distributed throughout the Reich territory as reserve divisions at the disposal of the OKH. (*Tr. pp. 2321-22.*)

The contention of the prosecution that in the order of 6 September 1940, Field Marshal von Brauchitsch had directed the transfer of troops to the East for the preparation of operations against the Soviet Union, and that such an order with attached map for the strategic concentration of troops had gone to Field Marshal von Leeb, is not correct.* In fact this order contained nothing concerning the preparation of an attack in the east and such an intention could also not be derived from it. (*NOKW-1744, Pros. Ex. 1197.*) General Halder has given the reasons (*Tr. p. 1891*) which were decisive for the troop transfers at that time, reasons which were obvious from a military view point. His testimony shows that only about 10 divisions were transferred to the East and that up to February 1941, the total of 25 divisions

* Section 81 of the indictment.

there were only grouped from the point of view of border protection and quarters. (*Tr. p. 1895.*) The opposing Russian forces were also considerably superior to the German forces after this regrouping. They were, as General Halder has stated (*Tr. p. 1893*), inordinately large for the task of securing the borders, in the first place. The map which the prosecution has mentioned but not presented can only have been a transportation or billeting map, because there was no plan of operations at that time, as General Halder has also made clear. (*Tr. p. 1895.*)

On 18 December 1940, Hitler issued Directive No. 21 (*446-PS, Pros. Ex. 1200*), the so-called Barbarossa Order, for the preparation of operations against the Soviet Union. As General Halder explained (*Tr. p. 1894*), it contained, for the first time in orders issued by the OKW, the restriction that this order was only a provisional directive in case Russia's attitude towards Germany should undergo a fundamental change.

As Field Marshal von Leeb remembers it, he first heard of preparations for a campaign against the Soviet Union in the second half of December 1940. (*Tr. p. 2323.*) This involved an operational problem posed by the General Staff of the Army and on which, as he believes, his chief of staff worked.

At the end of January 1941, Field Marshal von Leeb and the other commanders in chief of the army groups were ordered to report to von Brauchitsch in Berlin. (*Tr. p. 2324.*) He instructed them, in the presence of General Halder, concerning the background for operations in the east in accordance with the Barbarossa Order. Field Marshal von Brauchitsch declared that the political situation in the east might change, meaning the relations between Germany and the Soviet Union which had been tolerable up to that time. (*Tr. pp. 1895-96, 2324.*) Nothing can better characterize Field Marshal von Leeb's attitude toward war in general and toward the approaching war with the Soviet Union than his first reaction to this revelation by the Commander in Chief of the Army. As General Halder has described (*Tr. p. 1896*), he said:

“Must this be? We don't have enough forces for this. This must be prevented by political means.”

A few days later the first order of the OKW was issued. Field Marshal von Leeb transmitted it to his command on 5 February 1941 (*NOKW-2452, Pros. Ex. 1206*), with the remark:

“In case Russia should reverse her attitude maintained so far towards Germany, all preparations will be made, as a precautionary matter, which make it possible to crush Russia in a quick campaign.”

Field Marshal von Leeb was also opposed to this campaign, just as he was against the earlier ones. (*Tr. p. 2327.*) But there was no opportunity for him to influence Hitler. This had been attempted, albeit without success, on the next higher level of the OKH by Field Marshal von Brauchitsch and General Halder. (*Tr. p. 1897.*) Both of them had agreed, after receiving the Barbarossa directive, to emphasize the military doubts very strongly before Hitler, and to point, in particular, to the insufficient German forces. They brought up these doubts in a discussion with Hitler held early in February 1941, in the presence of Field Marshal Keitel and General Jodl. It was the only way in which Hitler could possibly have been influenced. But Hitler was already prepared for such objections and rejected them on the basis of statistics. (*Tr. p. 1898.*) The discussion ended with his order to prepare for a strategic concentration of troops that might possibly be necessary.

According to section 25 of the indictment, Field Marshal von Leeb is supposed to have conferred on 3 February 1941, with General Hoth concerning plans for the operations against the Soviet Union. The facts of the matter are really as follows:

Field Marshal von Brauchitsch had ordered Field Marshal von Leeb to report to him at that time to hear his opinions in general concerning the use of armored units. Since Field Marshal von Leeb himself had but little experience with this branch he talked the matter over beforehand with General Hoth, who was subordinated to him and whom he knew as an experienced commander of armored units. But this talk had no connection with the eastern campaign. (*Tr. p. 2326.*)

At the end of March 1941, Hitler called the commanders in chief of the army groups and armies together at the Reich Chancellery in Berlin and broached the subject of a possible attack on Russia as a preventive measure, going into considerable detail. (*Tr. pp. 1899, 2328.*) He declared, in agreement with the information the commanders in chief had already received during their first briefing on the Barbarossa Order, that they must count on the possibility of a change in the political situation in the east. Russia was ready for war and could make an attack at any time. (*Tr. p. 1899.*) He could not allow this to happen. Therefore he must be ready to beat such an attack to the punch at any time.

Field Marshal von Leeb had neither the possibility nor the right to check these statements of Hitler's, which were based essentially on politics. In the military field, as General Halder has explained, the steadily increasing Soviet Union forces at the front supported Hitler's theory about a preventive war. Conservative estimates showed the presence of about 10,000 Russian

tanks, which could only be opposed with about 3,000 German ones. (*Tr. p. 1898.*)

Hitler had not said that an attack by the Soviet Union was imminent. But his arguments had shown that he expected such an attack with certainty at a moment that would be unfavorable for Germany. With this thoroughly reasonable assumption, which his listeners believed, the prerequisites for exercising the right of self-preservation were established.

In this respect I quote a statement made by Senator Swanson during the debate on the Kellogg-Briand Pact in the American Senate on 5 January 1929:¹

“Thus, it is universally acknowledged that all wars of self-defense are excluded from the operation of this treaty, and every nation determines for itself the question of self-defense. It should be noted that this question of self-defense is not limited to territory, but includes anything that any nation may determine as vital for its protection and self-defense.”

I quote further from Professor Fenwick:

“For if there be one problem which international law has as yet failed to solve it is the scope of the right of self-defense. * * * self-defense may well be extended to include the anticipation of attack, * * *. The Senate Committee in its report attending, although not incorporated into, the resolution approving ratification, clearly had in mind a wider meaning of self-defense than mere resistance to invasion of territory.”²

Field Marshal von Leeb had orders, within the framework of the plan of operations in case of war, to occupy the Baltic States, take Leningrad, and to protect the left flank of Army Group Center. The preparations mentioned by the prosecution which were made in the spring of 1941 by Army Group North—as also by the other army groups—were the execution of this order. (*Tr. p. 2329.*)

On 15 May 1941, the Chief of the General Staff of Army Group North, General Brennecke, reported on the measures taken to the Commander in Chief of the Army. Field Marshal von Leeb was not present.

On 14 June 1941, Hitler ordered the commanders in chief of the army groups and of the armies to come to the Reich Chancellery. On this occasion Field Marshal von Leeb had to report on his ideas concerning the use of the army group. (*Tr. p. 1902.*)

¹ As cited by Professor Jahrreiss, *op. cit. supra.*

² Fenwick: “The Implication of Consultation in the Pact of Paris.” *American Journal of International Law*, vol. 26, 1932, pp. 788-789. (As cited by Professor Jahrreiss, *op. cit. supra.*)

A week later the operations against Russia began on Hitler's order.

I now turn to point [count] two of the indictment.

* * * * *

3. CLOSING STATEMENT FOR DEFENDANT SCHNIEWIND*

DR. MECKEL: May it please the Tribunal. Admiral Schniewind is charged with participation in crimes against the peace. The prosecution alleges that the admiral had taken an important part in the planning, preparation, and in the waging of these wars. In its opening speech, the prosecution speaks of his, "essential and deciding influence." So far, however, the prosecution has failed to produce evidence for this allegation.

A large part of the presented documents does not prove anything but this fact that the admiral, during the period from 1938 to 1941, in his capacity as Chief of Staff for Naval Operations, was engaged in the study and planning of military operations. This would not have necessitated such quantities of evidence.

I cannot find any incriminating facts therein in spite of the statements by the prosecution in its closing speech. I have produced evidence for the fact that, not only in Germany but also in other states, it is regarded as the obvious duty of military staffs to draft plans of offensive and defensive nature, for a possible war. The well-known British Naval historian, Captain Russel Grenfell, was not the only witness here to confirm this fact. Even in the March [1948] issue of the UNO organ, "United Nations World," we find the following article written by Ellsworth L. Raymond who previously worked in the Russian Economic Section of the United States Army:

"The Soviet General Staff headed by Marshal Alexander Vassilewsky under the personal supervision of Premier Josef V. Stalin has detailed operational plans for offensive and defensive wars to meet any military emergency that may arise at any time. There is nothing belligerent in this fact. The general staffs of all armies are obliged to draw up such plans, their peacetime job being theoretical and practical preparation for war, whenever or wherever it may come, and whatever form it may take."

Since the prosecution has also declared that it does not incriminate the defendants for having been soldiers and, "that they had committed acts which are usually expected from a soldier, as

* Closing statement is recorded in mimeographed transcript, 12 August 1949, pp. 9859-9876.

for instance the drafting of military plans," I can probably abstain from commenting on such documents the contents of which do not prove anything but the fact that the admiral has fulfilled his very professional duty.

The prosecution, however, regards the activity of the German officers as criminal because they had planned and waged wars of *aggression*. "The mental element of the case exists in the knowledge of Hitler's plans for aggression."

The prosecution believes to have proved this fact beyond any doubt. In his opening speech already, the Chief Prosecutor, General Telford Taylor, made the following statement:

" * * * the evidence is quite compelling enough and will provide its own eloquence. These members of the German Officers' Corps who have the capacity for clear vision and the courage to face the facts will welcome this opportunity for emergence of truth." (*Tr. p. 23.*)

To me it seems that the retrospective view of the prosecutors to the happenings of the past 25 years is somewhat clouded and gives little help for the emergence of the truth. If every event is separated from the connections, if the influence of effect and counter-effect is disregarded, if from the records of one party only such material is selected which is apt to serve the prosecution's purpose, then the drafted picture is bound to become distorted and incorrect.

However, the impression of the events which the defendants had at that time and which guided their actions, can even less be assumed from such a description. This all the less as this description was supplemented by opinions and findings which were subsequently gained and which in some cases are of dubious nature as to their correctness.

However, I neither intend, nor do I have the possibility to substitute these findings with a historically true description of the events, or to attempt to justify the measures of the then German Government.

In question here is the defense of Admiral Schniewind. In this connection a decision is to be taken in regard to two questions:

1. Was it clearly perceptible for the admiral, from his knowledge of the developments at that time till the outbreak of the war, that a war of aggression was planned, prepared, and started?

2. Was the admiral aware that the further operations of this war in which he participated, constituted unlawful acts of aggression? It is known what difficulties had to be encountered in order to obtain the available essential evidence and that this for

the greater part was not accomplished in spite of the support given by the Tribunal. Yet my presentation of evidence appears to me to have produced a sufficiently clear picture as to how the admiral had to see the developments for himself.

In view of the limited time I cannot go into further details in regard to this matter and refer to my written statements in the closing brief of the Schniewind defense.

What actually came to the admiral's knowledge and the way he saw the prerequisites of the military developments could not bring him to the conviction that he was participating in unlawful actions.

If the prosecution today bases its arguments on the allegation that the goal of the Nazi government was criminal from the beginning and that for this reason one should have been governed by suspicion and caution with respect to all orders, this is in any case a subsequent perception.

The officers accused here were involved to a lesser degree in the rise of the Nazi government than any other German citizens. They could not even cast their votes in the election. This government was put into power by a majority of votes which was unknown up to that time. Moreover, the suspicion, as it was suggested by the prosecution, did not exist abroad either at the beginning.

If Winston Churchill, as late as 1938, writes in the Times in an "open letter to Hitler":

"If England should be plunged into a national calamity comparable to Germany's misfortune in 1918, then I will pray to God to send us a man of your power of will and spirit."

One can hardly expect less confidence from a German admiral. It is obvious and natural that the admiral at first was also under the impression that this his government would not require him to do anything unlawful.

Moreover, his presence at Hitler's addresses before the military leaders, which the prosecution wants to regard as particularly incriminating has not given the defendant the knowledge of Hitler's aggressive plans as alleged by the prosecution.

The evidence has shown that—

1. The transcripts of the discussions from May and August 1939, did not truly repeat Hitler's statements of these days.

2. Schniewind, and that is the only thing that matters, did *not* gain the impression and conviction that an unlawful attack was planned.

Consequently Schniewind did not regard the plans and preparations, ordered at that time, as unlawful. To him they appeared

to law within the scope of the usual military planning for possible or threatening conflicts.

In one or the other cases he may have perhaps been uneasy about possible future developments, in no case, however, could his doubts over the ordered measures have been so strong as to induce him, beyond his tasks, and duties, to undertake investigations or even countermeasures.

Before the recess I was talking about whether and to what extent Admiral Schniewind could recognize the developments until the outbreak of war that an aggressive war was planned. Perhaps I should read the last sentence again. "In one or the other cases he may have perhaps been uneasy about possible future developments, in no case, however, could his doubts over the ordered measures have been so strong as to induce him, beyond his tasks and duties, to undertake investigations or even countermeasures." It applied all the more to the subsequent operations of the war. The political and strategic moves of the military opponents following the outbreak of the war constantly set in motion new military operations and conflicts in an apparently necessary sequence through action and counteraction. Impelled by reasons of propaganda, fear, and opportunity, neutral states incline toward one of the two parties, abandon strict neutrality and are unexpectedly snatched into the whirlpool. Conscious of their power, statesmen of the great powers play their game with cool calculation, place their stakes on red or black, according to which side the chances of winning appear to favor.

Nobody, however, sees the most secret actions and intentions of both sides, nobody is able to recognize clearly the direct and indirect effects of their own measures and those of the enemy. Only a few know what is really considered, planned, and reconsidered again on their own side. What the opposing side is planning and preparing can at the best only be perceived in fractions. The view beyond the front is hazy and unclear; the picture of what has happened is obscured by numerous mirrors and darkening glasses, the intelligence forwarding channels of spies and agents by a pestiferous conclusions and combinations.

It will perhaps not be possible until much later for a historian to note clearly and accurately what has happened, when he can review all the ponderables which exerted an effect in this play of forces.

The prosecution proposes to regard this extension of the conflicts as individual phases of a carefully considered plan for the subjugation of Europe. It utilizes the most secret documents of one side, insofar as they fit into the picture which it desires, separating with a sharp cut all associations and connections

which lead away from this picture and leaves backgrounds and effective causes in the dark.

It is quite certain that things were not so. But it is likewise certain that even the admiral did not see things as a historian will see them years later.

He learned what he was permitted to learn, what he had to know for his work, the planning of naval operations.

In my presentation of evidence I was also able to submit documents, telegrams, letters, orders, and records concerning the intentions, plans and preparations on the Allied side. These documents show how military leaders there thought and acted.

If the prosecution had been in a position to submit letters and statements by Admiral Schniewind such as those, for example, which I submitted of General Gamelin and other personages on the opposing side, the situation of the defense would probably have been substantially more difficult.

If Hitler complained that he had to drive his generals to military operations instead of it being the other way around he would certainly have been much more pleased with General Gamelin.

I can probably assume that the Allied Governments which have established, and are supporting this Tribunal, regard the actions and plans of these political and military leaders as lawful and as lying within the scope of their duties and tasks. If they apply a similar standard they certainly cannot describe the actions of the admiral as criminal.

Furthermore, these documents show that the impression held on the German side frequently did not differ very much from the actual events.

A large part of these documents already became known to the German leaders during the war and subsequently appeared to confirm the justice of the German actions. This confirmation, however, also had an effect on their attitude toward subsequent operations which were ordered.

The prosecution has certainly not been able to prove "beyond any reasonable doubt," Schniewind's knowledge of the criminal aggressive character of the German planning and conduct of the war.

It was not possible for it to succeed in doing this for the reason alone that the prosecution proceeded from false assumptions.

The so-called aggressive acts and aggressive wars under indictment were primarily land operations and were decided by army and aviation forces. In all cases the planning and operational offices of the army learned about these intentions substantially earlier than did the navy, and these offices also worked out such

matters sooner, more extensively and more definitely. Admiral Schniewind was not Chief of the General Staff of the Army, but Chief of Staff of the Skl.

Only in one case, the occupation of Norway, did the initiative come from an admiral, and, to be sure, not from Admiral Schniewind. The Skl however, occupied itself with this problem substantially earlier than the other staffs.

Yet in this very case the evidence appears to me to show unequivocally that Schniewind—

1. Necessarily had to regard these considerations and plans as justified and necessary and
2. Their execution as a lawful preventive measure.

On this point even the prosecution no longer appears to be sure of its case. In this case it not only referred to the findings of the IMT but also presented new evidence during the rebuttal to prove that the occupation of Norway by Germany was contrary to law. This evidence could not and was not intended to refer expressly to Schniewind's knowledge but was supposed to prove the fact of the unlawful aggression in itself. This procedure is novel and at least striking.

But even these documents are unable to shake my evidence that the German actions against Norway were justified by international law.

I have proved in my written concluding arguments through an accurate comparison of German and Allied measures that their plans and preparations ran completely parallel and that Germany reached her objective only a hairs-breadth before her enemies.

From the very beginning, however, the objective of the German leaders was to prevent a threatening occupation of Norwegian sovereign territory by the Allies.

The intention of the Allies, on the other hand, was solely to cut Germany's supply line, which was protected by international law, by an act contrary to international law.

If the IMT decided otherwise, this was perhaps because it did not have the evidence at that time which is available today. Today we have at our disposal additional documentary records from French, Swedish, and English sources which were not known to the IMT.

The publications of the French Chief of the General Staff Gamelin and, above all, those of the First Lord of the British Admiralty at that time, Winston Churchill, show events in quite a different light. Additional documents from German files and war diaries, as well as the testimony of witnesses, complete the picture.

Sentence 2 in Article 10 of Ordinance No. 7 states:

“Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary.”

New and important evidence is on hand and must make it possible to correct an error in the facts established by the IMT if the words shall not become true which Hitler is supposed to have said to his generals on the eve of the war:

“What matters, is not whether you are right, but that you are victorious.”

Even if one ignores my argumentation and just supposes that Admiral Schniewind realized that his work was utilized for the planning, preparation, and the conduct of aggressive wars, is a criminal responsibility given thereby?

A responsibility or even just a coresponsibility can only be applied to the one, to whom certain rights and duties give the possibility to influence the acts under consideration, to prevent them or to attenuate them at least.

The decision about peace or war in any country claiming an orderly state of government is in the hands of the government. It is the duty of the general staffs to plan and prepare for any eventuality. The political leadership decides and designates when and under which suppositions these will be carried out. In his report, the Chief of Staff of the American Army, General Marshall, writes to the United States Minister [Secretary] of War:

“When and where our armed forces shall serve must be decided by the Commander in Chief and the Congress; this question must not be confounded with the task first of all of making our armed forces ready for possible action.”

It would be in contrast to the democratic principle of political leadership by the people, respectively the government elected by it, if one permitted that soldiers would utilize their power and position to influence this policy or even designate it. To permit this or even to demand this, would mean to breed militarism, the suppression of which constitutes just today such an important part in the education of the German nation.

An authoritarian government will let itself be even less influenced by the military. It is certain that Hitler did not do so. If the National Socialist Germany has to be called militaristic, then not because soldiers influenced its policy, but because the political leadership forced the entire public life under military principles.

If one realization becomes obviously evident from the entire argumentation of this trial then it is this, that the military leaders were not the driving element but the retarding element in the planning, preparation, and the dating of the wars.

Control Council Law No. 10 states under Article II, that persons who held high military rank in Germany, are to be considered as guilty of the crime to have broken the peace.

If according to this law a coresponsibility can be imposed on military leaders at all, then certainly only on those, who due to their position and influence could at least exert a theoretical influence on the political events. A broader interpretation of this law would be in contrast to the general legal principle that an individual guilt has to be incurred to become incriminated. One step beyond this borderline would imply a step into a void. The judges of the IMT have also endeavored in their sentence to find this borderline and the second English Judge Birkett designates in a later published article the Nuernberg judgment as the judgment of restrictions.

The president of the IMT, Lord Justice Lawrence expresses himself also in favor of a narrower interpretation of the statute regarding participation in aggressive wars.

In other Nuernberg judgments the endeavor is also recognizable to supply Control Council Law No. 10 only insofar, as an individual guilt is in evidence. With all these judges the obvious intention is recognizable to get back to the principle of Hugo Grotius—

“Those who are responsible for war are to be distinguished from those who follow them.”

The prosecution declares :

“In order to establish their guilt, it must be shown that they carried on substantial activity in a responsible capacity in connection with the planning or waging of war.

“In order to determine whether the element of ‘participation’ has been sufficiently established against any given defendant it is necessary to establish the position or positions which he occupied at the time the aggressive wars were being planned and waged, and the nature and scope of the authority, responsibility, and duty which attached to his position or positions.”

With an officer, who, like Admiral of the Fleet Raeder, as Commander in Chief of the Navy, had contact with the political leadership and political problems, the question of coresponsibility might theoretically be worth being advocated. With an officer in the position of Admiral Schniewind, this can most certainly no longer be applied. Schniewind was unable to exert any influence on the course of international events and his position cannot be considered as a high military position in the sense of Control Council Law No. 10, Article II.

“The evidence against Schniewind parallels very closely the evidence which led to the conviction of Raeder by the IMT.”

This statement by the prosecution and the conclusion contained therein, stems just like the whole construction of the indictment against the admiral from basically wrong suppositions. It shows, that the prosecution cannot, or will not see, the difference between Raeder and Schniewind, in position, sphere of duty, and responsibility.

The Admiral's position as Chief of Staff of the Skl, his tasks and possibilities were made clear by the evidence produced, particularly by the witnesses Heye and Schulte-Moenting. Schniewind was the head of the Operational Working Staff of the Commander in Chief of the Navy, of the Skl. Chief of the Skl was not Schniewind, but Raeder; Schniewind in his capacity as Chief of Staff had no authority beyond the sphere of the staff. He acted upon direct orders of Raeder and on his behalf. He had not had the possibility, not even temporarily, for instance, while the Commander in Chief of the Navy was absent on leave, of making basic decisions which would not have been approved by Raeder. Only by judging Raeder's character and personality correctly, one will understand why he wanted to keep the reins firmly in his hands. On the one hand he, as an old navy officer of the First World War, remembered too well the parallelism and, in many cases, the opposition of the Naval Command and the Admiralty Staff that he would not have done everything in order to prevent that such conditions were repeated. On the other hand Raeder feared that a second command headquarters of the navy beside him might yield to Hitler's continuous efforts to gain also influence on the matters pertaining to naval warfare. Thus, Raeder simultaneously retained the position of Chief of the Skl.

This position of his as chief was not only on paper, as might be thought, but Raeder was actually chief who centrally guided the activity of this most important section of the High Command. *He* issued the directives for the activity of the staff, *he* ordered that daily verbal reports on the situation be made to him, *he* made, if necessary, formal verbal reports to the Supreme Commander of the Armed Forces, *he* issued and signed basic orders. How scrupulous he was in the fulfillment of these tasks is proved by the fact testified by the witness Schulte-Moenting that Raeder always continued to carry on his official duties, also while he was on leave, and that for this purpose he was in permanent direct telephone connection with the High Command. Admiral Raeder felt himself *solely* responsible to Hitler for everything which was done within and by the navy.

Thus, Schniewind had also no possibility of exerting an influence on Hitler's resolutions and decisions. Only once during the war he was present while Raeder and a department chief made formal verbal reports to Hitler, without having been asked for his opinion or allowed to express it by a single word: Raeder had reserved to himself alone the right of reporting to Hitler and exerting perhaps an influence on his resolutions and he strictly watched over this privilege.

Consequently an indirect exertion of influence would only have been possible through Raeder. And that is what Schniewind did in those cases in which he believed to be obliged to do so. Thus, for instance, he expressed after Hitler's speech in August his doubts toward Raeder concerning Hitler's opinion on the situation which, in his opinion could lead to war complications, contrary to Hitler's assertions. Raeder was of the same opinion and assured to Schniewind that he would once more talk with Hitler and indeed he did so subsequently. In all the other cases he either did not feel obliged to do so from his point of view, or he knew that Raeder already tried on his own initiative to submit respective doubts to Hitler and to exert an influence on his decisions.

Thus, Raeder tried in the months previous to the occupation of Norway, to hold Hitler back from rash decisions by telling him repeatedly most impressively about the dangers incurred by such an operation and the risk connected with it. This was done despite the fact that Raeder was probably the only one who distinctly realized the danger threatening from the other side. In spite of this he tried to hold this far reaching and weighty decision back until circumstances compelled him to act.

Before the campaign against Russia, Raeder tried repeatedly and impressively from the day Hitler's intentions became clear to him to discourage Hitler from this. Raeder did not believe in an acute danger from the side of Russia and pointed out to Hitler the already far too great tasks in the fight against England. On this occasion he certainly exceeded the limits which were set for him by his general view and competence. Today it seems, that he erred in judging these situations and the danger threatening from Russia.

In the intended action against the West, primarily the march into Holland, Belgium, and Luxembourg, Raeder knew and probably Schniewind also, about the constant endeavors made by the army to prevent this operation or defer it at least. Due to its small measure of participation, the navy had barely any possibility to strengthen these endeavors yet. But whatever could be done, was done, Raeder repeatedly pointed out to Hitler, that from the side of the navy there was no interest in an occupation

of Dutch and Belgian bases. Intelligence on hand about the intentions of the opposition [enemy], compelled him though, to make preparations for counter and defense measures which might eventually become necessary.

The navy practically did not participate at all in the campaign against Yugoslavia and Greece, on the other hand the captured documents of the French General Staff threw light on the intentions and preparations of the Allies in the Balkans.

In all these cases Schniewind had no possibility of exerting any influence on the events. In those cases in which he had even the slightest doubt he did the only thing he could do! He disclosed his doubts to Raeder and in those cases Raeder had also on his own initiative taken the necessary measures in order to clarify these doubts.

In addition to this it would only have been left to Schniewind—always under the assumption that he had had justified doubts in the lawfulness of these orders—to refuse obedience.

The prosecution seems to expect this. In the opening speech of the prosecution it is said (*Tr. p. 146*):

“In the nature of things, planning and executing aggressive war is accomplished by agreement and consultation among all types of a nation’s leaders. And if the leaders in any notably important field of activity stand aside, or resist, or fail to cooperate, then the criminal program will at the very least be seriously obstructed. That is why the principal leaders in all fields of activity share responsibility for the crime, and military leaders no less than others.”

The prosecution refers also in this allegation to a passage in the judgment of the IMT:

“Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats, and business men. *When they, with knowledge of his aims, gave him their cooperation, they made themselves parties to the plan he had initiated.*”

I doubt whether it is also in other countries demanded and expected of soldiers what the prosecution demands in this case of German officers.

The witness Grenfell in his capacity as officer of the British Navy expressed his opinion on this in this Court.

The American General Ulysses S. Grant writes in his memoirs [p. 37] with respect to the war between U. S. A. and Mexico in 1846–48:

“For myself, I was bitterly opposed to the measure, and to this day regard the war which resulted as one of the most

unjust ever waged by a stronger against a weaker nation. It was an instance of a republic following the bad example of European monarchies in not considering justice in their desire to acquire additional territory."

"It is taught by experience that whoever raises objections against a war in which his nation is involved, regardless whether rightfully or wrongly, has no enviable position in life or history. It would be better for him individually to approve of 'war, pestilence, and famine' than to hinder a war which has already been started * * * .

"The most favorable fate a traitor remaining in the country can hope for from later history is oblivion."

In every state the soldier is certainly more than any other citizen obliged to obedience. That is the basis of any armed force. A destruction of this basic notion would mean a destruction of the armed force itself. So far relations between nations have not developed into a state in which an armed force will no longer be necessary, one will not be able and allowed to destroy this basis.

If, nevertheless, it is believed that a moral obligation to opposition and refusal of obedience can be demanded from high military leaders, this can only be done in those cases in which conscience and firm conviction made one fear an imminent great danger for the nation and if there is a possibility to remove this danger or to reduce it considerably by an opposition.

What would, however, have happened if Schniewind had refused obedience? He would have been convicted by a court martial and would have died as a traitor. The death of Schniewind would not have changed the course of events. That is shown by his withdrawal from his position as Chief of Staff of the Skl in 1941.

When the former Commander in Chief of the Fleet went down with the "Bismarck", Schniewind was ordered to replace him because, due to his experience he seemed the suitable person to replace the lost Commander in Chief of the Fleet. The Chief of the Operations Section moved up to Chief of Staff. Here, in particular, the witness Rear Admiral Schulte-Moenting describes how tightly Raeder controlled the administration of the Skl, so that the Chief of Staff could be replaced by another officer without further ado.

However, do not misunderstand me, I do not wish to say that Admiral Schniewind served merely as a decoration. He himself related during his examination what his duties consisted of. He was the chief adviser of the Chief of the Skl in naval strategic and tactical matters. He was in charge of the professional side of the Skl, his activities and responsibilities were in the purely professional field.

The conduct of the naval war has already been declared as noncriminal in the IMT verdict and is also not so charged here. But the part the admiral played in the over-all conduct of the war was certainly not such that his absence would have influenced the course of the war. Neither the Skl nor even the navy was suited for such a role.

Open opposition by Schniewind would also hardly have had any effect as an example to others. There are well-known military leaders who are not accused here and who held more important and more prominent positions. These men even claim that they had recognized the criminal intentions of Hitler and the illegality of his actions even before or at the time the war broke out. *These* men did *not* rise in opposition, did *not* rebel—at least not with any noticeable effect.

Their example would doubtlessly have made more of an impression than that of the admiral who—I must emphasize this once more—in contrast to them, did not suspect anything criminal from his knowledge of affairs.

But even if one asserted the moral duty in this case, is there also a legal duty to rebel? I do not believe that any criminal code can demand that a man risk his life to alleviate the effects of crimes which he has not instigated. Schniewind could not prevent these acts through his own efforts anyhow.

In conclusion, I find that knowledge of the criminality of these acts, as well as the possibility of preventing them are missing in the effort to establish Schniewind's criminal responsibility. In judging the admiral, Your Honors, do not use other standards than you would in judging the soldiers and officers of your own country. You are told that these officers misused their profession to wage wars of aggression, or allowed it to be misused. The definition of the conception of "war of aggression," is contested to this day in circles of jurisprudence. The IMT, too, was careful not to accept the definition that Chief Prosecutor Jackson proposed and also did not itself make such a definition or agree to any other definition. The prosecution seems to have overlooked this, it is true, when it asked the witness Grenfell during the cross-examination if he had read the definition of "aggression" in the IMT verdict and if he agreed with it.

Probably it was also clear to the IMT that it is not always the one who shoots first who is the aggressor. The reasons behind a war are usually deeper and go further back; it does not begin with the first shot. I believe that this realization is more prevalent today than ever.

Had the IMT established a certain definition this could easily have falsified the real guilt in a future case and perhaps the

responsible statesmen are today grateful for its caution. But I ask how, under such difficult circumstances, a soldier can be expected to take a clear cut stand against his own government on this question.

You will be told that in your countries no wars of aggression were prepared, and that, therefore, the soldier was not exposed to these doubts and conflicts of conscience. Before the outbreak of a war but especially after a war, each of the two parties will contend that the other was the aggressor. After a war the victor will always be able to interpret this definition as he desires to, but above all, in contested cases as for instance in all cases of necessary interventions. Can a government leave the decision whether military plans or even operations are necessary in such cases, up to the soldiers, and, what is more important, will it want to do this? But if you, through your verdict, give the soldier not only the right, but also the duty to decide himself whether an operation is justified and whether he will participate in it, then those countries with the greatest freedom of thought will at the same time be the weakest. But those nations will be strongest which limit and control the knowledge and thoughts of their citizens and soldiers.

4. CLOSING STATEMENT FOR DEFENDANT WARLIMONT*

DR. LEVERKUEHN: Your Honors, I would like to speak in English, but unfortunately owing to technical reasons, we didn't get enough copies, and I am afraid I will have to re-present my final plea in English without being able to give the Tribunal a copy of the English.

PRESIDING JUDGE YOUNG: That will be satisfactory if you want to do that, or you can give it in German and they can translate it to us. I suppose whatever you prefer, you may do.

DR. LEVERKUEHN: Since I wrote it in English and translated it into German, I think I'd rather speak in English.

PRESIDING JUDGE YOUNG: That will be entirely satisfactory to the Tribunal.

DR. LEVERKUEHN: May it please Your Honors. The prosecution bases its case chiefly on documents. These numerous reports, minutes, orders, belonging to the past, speaking with the dull voice of the written word, telling the stern story of war, the depressing tale of cruelty and death.

One document is different—it is in most parts full of cheer, of flags, of music. That is the film: Nazi Rise to Power. Only in a

* Closing statement is recorded in mimeographed transcript, 12 August 1948, pp. 9895-9910.

few pictures in the end it narrates failure, injustice, and despair. Except for these few appendices it shows Adolf Hitler and his men exactly as they wanted to be seen by the world and particularly by the German people.

He was successful in his endeavors. With the help of Dr. Goebbels' vast and efficient propaganda apparatus, he remained far into the year 1944 for the majority of the Germans the Fuehrer who might suffer setbacks, but would ultimately lead the nation to success.

It is well to reflect a moment on this picture when starting to consider the case of the German generals now before this Tribunal. For this document is so much more alive than the other documents are, and it shows so *comprehensively* some of the important aspects of this period of history.

Whoever has seen the picture cannot doubt that Hitler was popular, tremendously popular. That means to say that he had been politically successful to an unusual degree on the home front, that he had become the ideal of the people. It is also evident from the picture that he was successful in foreign policy. He had overcome the restrictions of the Versailles Treaty step by step; the limitation of armaments, the disarmament of the Rhineland. He had united Austria to Germany and won the Sudeten country with the acclaim of the population—this the film makes unmistakably evident—and the consent of all the great powers as expressed in Munich. He had achieved this against the advice of the trained diplomats and experienced members of the Foreign Office—probably one of the most potent reasons for his disregarding time and again expert advice at a later stage; in conducting war until the situation was hopeless, beyond repair, and defeat inevitable—but at the same time the political situation was well so irreparable that suicide and unconditional surrender were his and the nation's unescapable fate.

Looking at the picture one wonders what it was that gave this man the tremendous power over his fellow men. Is it possible that all these people, including the women and children who cheer and adore him, should have been captivated by a person thoroughly bad, thoroughly wrong in the ideals which he preached?

Certainly he proclaimed some ideals which were unobjectionable like patriotism, devotion to duty, and common love of the people to each other. Human nature seems to be unable to believe that a person who preaches such ideals should himself not be filled with all the good emotions and sentiments of such ideals.

If one has followed the proceedings before this Court, one knows that there is another side to the picture, that of the man who sent millions of innocent people to the grave. One of the

Tribunals here in Nuernberg has likened the defendants before it to Dr. Jeckyl and Mr. Hyde. To use another famous simile from literature—was not Hitler like the picture of Dorian Gray? To all outward appearance the strong, sincere leader of the nation while in reality, but in obscure secrecy, there was a cruelty so beyond human belief, so extraordinary as had been his successes and his popularity.

It has been a source of wonder for many people that Hitler should have been able to conceal his cruel actions so long and so successfully. It was part of his policy. He had to be extremely careful in the interest of his popularity. He was too astute a politician not to realize that the devotion of most men, certainly all women would be wiped out if the actions of his henchmen in Poland and Russia and the story of the concentration camps became widely known and proved. It seems strange, but it is true of all dictatorships, that they are extremely sensitive to popular favor and disfavor. They are not dependent on votes. But to allow public opinion to sway would have immediately affected the war effort. It was, therefore, essential to forbid all discussion of concentration camps and killing of Jews. And it was possible to enforce this prohibition—for to accuse the Fuehrer of cruelty or immoral action was a crime and there were enough sycophants but also many sincere followers of the Party who would be sure to report the miscreants. Rumors were, of course, current but to nail them down, to get to the facts would only have been possible for a person who was in a position to observe, but could practically isolate himself from being observed, and such situations did hardly exist in a war in which every man was either in the army or was otherwise drafted.

The duplicity of Hitler's nature is today apparent to the world. But it would even now be difficult to say whether this duplicity was there from the beginning or to determine when it began to develop. The recently appointed chancellor who walks modestly beside von Hindenburg, the Grand Old Man of the nation, to pay homage to the sarcophagus of Frederick the Great at the Garrison Church at Potsdam—is he already willing and capable of committing the atrocities which were perpetrated by his order in later years? Or are they the fruits of a megalomania which gradually took possession of his mind and will?

It is certain that an extremely well conceived system of running people and groups on double tracks was soon adopted in the Third Reich and was fully developed in the war years. Even among the party chiefs it seems that the various groups knew little of each other and were largely kept in ignorance of the ultimate goals

and of the methods. The judgment in the Ohlendorf case* reveals that as early as May 1941, the chiefs of the Einsatzgruppen received their oral instructions from Heydrich at an obscure place named Pretzsch (whether by order of Hitler or Himmler seems to this day unproved).

These left no doubt in their minds just what they were expected to perform, while on the other hand a group, composed of high party officials from various ministries and offices, were told by the same Heydrich in January 1942, at a conference at Wannsee, of an entirely different set of plans for what was called, "the final solution of the Jewish question."

The remarkable observation to be made with respect to all such meetings is that there was never a member of the armed forces present. They were not supposed to be advised—quite to the contrary—they were to be kept in the dark. To them Hitler wanted to appear as the Commander in Chief, the Head of the State, the symbol for their patriotism and their devotion to their country.

It is one of the deep-rooted sentiments, one of the elements of the human soul to want a symbol for its patriotic devotion. It may be the president in a republic, or the king in a monarchy or in a realm of otherwise thoroughly democratic institutions. Prussia and the German Empire had had the good fortune of having rulers for more than 250 years who were, almost without exception, in the true sense of the word the first servants of the country. There had never been a friction between the army and the king, and a few years after a republic had been established, the president of the republic was a general to whom the hearts could go out with full reverence and devotion. Hitler took full advantage of this heritage. He was probably quite aware that a great deal of the traditional feeling that, "the king can do no wrong" was unconsciously extended to him, and that it would take a long time for an officer of the old tradition to see him in the true light and to be able to suspect him of doing wrong.

Goering has, during his trial, frequently been called the "last Renaissance person," and there is today no doubt that Machiavelli was the prophet and symbol of the statesmanship and morality of the Third Reich. The Prussian Army was educated in the philosophy of Frederick the Great who is the author of a book with the title, "Anti-Machiavel," in which he laid down the principle that the king is the first servant of the state. Every officer was honor bound to follow this example. The frugality of the surroundings in which the German officer grew up and the code of morals which he took with him into life are much nearer to the puritanism of New England than to the luxuries and im-

* *United States vs. Otto Ohlendorf et al.*, Case No. 9, vol. IV.

moralties of the Rome of the Renaissance period which, in their modern Nazi edition, he did not comprehend, nor was he able to suspect in their consequences.

These basic psychological facts are essential for an understanding of the position, and of the tragic conflict, of the German officers' corps, and of the best among them.

In order to appreciate the life, the actions, and the responsibilities of the defendant Warlimont it is important to determine his position in the army.

The prosecution contends in the indictment that Warlimont was one of Germany's "highest military leaders." It fails to support this contention by any proper evidence, indeed, its own witnesses testified to the contrary.

A high military leader has usually a high rank. Warlimont never attained more than that of a general of artillery, the equivalent of a lieutenant general in the American Army, and that only in 1944. He was once, in the early years of the war, favored with a preferred promotion, but later fell back of his contemporaries in the general staff.

A high military leader is a man who holds a position in the service of first rate importance. Warlimont's rank would have entitled him in the field to the command of an army corps, not even an army, certainly not of an army group, or in the staff service to the position of chief of staff of an army or army group. His position as Deputy Chief of the Armed Forces Operations Staff never gave him more disciplinary authority than that of a divisional commander.

He was never decorated in an exceptional way. Surely, then, he cannot have been considered as a high leader of the armed forces by Hitler who had a free hand in distributing decorations and field marshals' batons.

The prosecution takes great pains to demonstrate that Warlimont was one of Hitler's prominent advisers; it failed to produce any document or witness to prove this contention. In fact the prosecution introduced a document which definitely disproves its contention; it is the stenographic transcript of a situation conference at Hitler's headquarters. This is a very interesting document; it illustrates most vividly how Hitler acted as Commander in Chief, which topics he discussed, what information was preferred, whose advice he allowed to be uttered, and whose advice he invited and accepted. Warlimont is not among the favored few.

The defendant Warlimont was appointed head of the Division of National Defense in the OKW in 1938, at a time when the organization of the OKW was still in its infancy, and the preponderance of the OKH, OKM, and OKL so marked that Keitel, the

Chief of the OKW, was entirely dependent upon the Commander in Chief of the Army von Brauchitsch.

Warlimont was, upon his appointment, given to understand that he was put into the new position for which he had not the requisite operational experience expressly for the purpose of avoiding a strengthening of the weight of the OKW. Being the product of the General Staff and a devoted disciple of its former Chief, General Beck, he agreed with the underlying idea of leaving the preponderance with the army and its general staff though this meant a considerable sacrifice for the natural ambition of a qualified general staff officer who would, of course, want his position to be influential and effective.

The OKW was not what its name seemed to indicate: the High Command of the Armed Forces. Hitler exercised his authority as Commander in Chief, before the war and during the early years of the war, with restraint and when he exercised it, he did so by direct oral or written orders to the three Commanders in Chief or frequently used his aides from the three branches as the means of communicating his orders and wishes. The OKW was left with giving the last technical touch to the orders already known and in large parts already executed, a formality which could not very well be dispensed with.

The contribution of Warlimont's division were confined to minor, co-ordinating functions. He was not supposed—in fact, he was not allowed—to take the initiative and the scope of his responsibility was very limited and subordinate in character. The regulations defining Warlimont's position and duties are specific and unmistakable. That their practical application did not leave him any wider discretion than the letter would permit the evidence shows clearly. He acted and he signed, "by order," and initiative was not foreseen in the regulations nor desired in practice. He was more restricted in authority and responsibility than a chief of staff and did not enjoy the prerogatives nor bear the responsibilities of a chief of staff as he remained throughout the war in the position of a head of a division.

The activities of his division underwent certain changes during the course of the war as the exigencies of the situation necessitated them, particularly after the time that Hitler took increasingly a part in actual command. When Hitler dismissed von Brauchitsch and some time later also Halder from the command of the army he left the campaign in the East to the army and its general staff while he, Hitler, exercised his command authority in all other theaters of war, Norway, the Southeast, Africa, the West—through the OKW, Jodl acting as his chief of staff in fact, though not in name, as Keitel was designated as such. Warli-

mont's division thus became more than before a parallel organization to the Operations Division of the General Staff of the Army. This comparison is, however, not quite correct, chiefly due to Jodl's zealously guarding his position vis-à-vis Hitler, his monopolizing his position as Hitler's military adviser.

The activities of Warlimont's division underwent a further change during the war because Keitel's authority was extended. As long as von Blomberg had been Commander in Chief of all the forces he had also been Minister of War. Hitler was not interested in administrative matters in any respect, including the Ministry of War. Important functions, like the procurement of armaments, were at an early stage to a great extent transferred to the Four Year Plan Department under Goering, and later concentrated in the Armament Ministry under Speer. What remained of War Ministry work was left in charge of Keitel, and when Hitler took over the command of the army he dumped such departments, as he was not interested in, on Keitel's desk. Keitel in turn referred certain parts of his duties to Warlimont's staff, and kept certain parts to himself, operating them directly or through his aides and general staff officers attached to him personally, with the chief of the reserve army, the department for fuel supply and other agencies.

Warlimont was recognized as an able general staff officer among his contemporaries. In addition thereto he had exceptional administrative ability and experience in foreign countries, a factor, which became increasingly important as the war advanced from a purely German affair into a war of alliance. In this accumulation of ability and experience he was unique. As always happens when an organization is new, or faultily developed, as the German High Command was under Hitler, personality must make up for organization, and Warlimont was the victim of this rule. An enormous quantity of work devolved upon him from three sources: operational, administrative, and foreign; and being gifted with a rare capacity for work, he took it on. The unsatisfactory result for him was that he became more and more indispensable. But his influence did in no way keep pace with his broadening duties. It remained stationary, did not exceed that of a head of department and that meant very little in the realm of Hitler as far as the really important decisions were concerned. Warlimont described on the stand very vividly how he came back from the front in Africa and Italy, reported and recommended a certain course and got nowhere; how he advised against the campaign in Norway and warned that the coast of Northern Africa, unprotected as it was, verily invited an Allied landing operation. His memoranda did not even find Jodl's attention, much

less did they reach Hitler. That was the great stumbling block: Jodl was completely encompassed in the ideas of Hitler; he actually forbade comment upon, or criticism of, any Hitler order and jealously kept everybody away from the inner sanctum of the Fuehrer. He, Jodl, lived within this sanctum, the Sperrkreis I, together with the personal entourage of Hitler; the party chiefs, like Bormann; the personal confidants of the midnight meetings, like Hoffmann; the photographer; the aides who accompanied Hitler on his strange walks in the small hours of the night, this man who hated the rays of the creative light, the sun.

Warlimont lived within Sperrkreis II, together with the military staff, a life as in a monastery, well regulated in every hour of the long working day, very tightly shut up against the rest of the world.

That was where the great divide lay: between Sperrkreis I and II. Sperrkreis I symbolized Hitler and his advisers. In Sperrkreis II began the army and the General Staff whom Hitler came to hate and to despise more and more as the years went by. There, in turn, the resistance to his fury and folly grew as the events unfolded the course to ruin on which he was leading the army and the nation. Within the General Staff the plans were formed for his overthrow which General Halder described to the Tribunal: the plans for the attacks on Hitler's life of which General von Gersdorff, another witness in this trial, was a participant and the ideas which were to find their outbreak on 20 July 1944.

Warlimont has frankly told the Tribunal that his religious convictions would have forbidden him to participate in an undertaking aiming at the life of his Commander in Chief. But that he belonged not to the group of Sperrkreis I, but to the General Staff, to the officers who served their country without being blindly subservient to Hitler is amply illustrated by the number of his friends who lost their lives under the tyrant's order like Canaris, Wagner, Lindemann, Meixner.

Warlimont is accused of having participated in starting aggressive wars. Not a single document has been produced which would indicate a contribution to Hitler's resolution of waging wars or constitute an essential element in the plans for these wars. To check and correct the timetables of the three forces after all plans are worked out cannot conceivably be a criminal act for a general staff officer and all his other work was not of any greater weight or importance.

The prosecution in its closing argument quoted the Farben Judgment which says of the defendants in that case*: "Their participation was that of followers and not leaders. If we lower

* United States vs. Carl Krauch, et al., Case No. 6, vols. VII and VIII, see judgment.

the standard of participation to include them, it is difficult to find a logical place to draw the line between the guilty and the innocent among the great mass of the German people." These sentences are exactly applicable to the case of the German generals, and particularly to the defendant Warlimont.

The Farben decision goes on to say:¹ "Strive as we may, we are unable to find, once we have passed below those who have led a country into a war of aggression, a rational mark dividing the guilty from the innocent. * * * let it be said that the mark has already been set by that honorable Tribunal in the trial of the international criminals. It was set below the planners and leaders, * * * and above those whose participation was less, and whose activity took the form of neither planning nor guiding the nation in its aggressive ambitions. To find the defendants guilty of waging aggressive war, would require us to move the mark without finding a firm place in which to reset it. We leave the mark where we find it. * * * "

Is this Tribunal willing to move the mark? And where would it reset it?

It has become one of the truisms which are frequently repeated that international law is not static. The Tribunal would have to make an entirely new contribution to international law if it were to include a man like the defendant Warlimont among those guilty of starting and waging an aggressive war, and it would not be in harmony with the trend of international law which can at present be observed.

It has undoubtedly not escaped the attention of the Tribunal that a discussion on responsibility in international law and on the constitutionality of executive acts in that field is under way in the United States which has its bearing on the questions at present under consideration in this Tribunal, a discussion chiefly led by the Nestor of American historians, Charles A. Beard.²

An English comment should not be overlooked regarding the IMT decision:

"So far as the charge of planning aggressive war was concerned, there was no defendant who was condemned to death or even to imprisonment for this crime alone, and if the Tribunal was wrong in its interpretation of the Kellogg-Briand Pact an aggressive war is not an international crime for which those responsible are punishable; it is open to the civilized states of the world, or some of them, to declare that they deny the validity of any such proposition."³

This comment is important in view of the man who made it.

¹ Ibid.

² Beard, *President Roosevelt and the Coming of the War 1941* (New Haven, 1948).

³ *International Affairs*, vol. XXIII, No. 2 (London, April 1947).

It was Lord Oaksey, formerly Justice Lawrence, who presided over the IMT proceedings.

When it is taken into account that the Russian vote would undoubtedly not be counted if the decision with which the IMT was faced were to be taken again, it is more than doubtful whether the decision would be the same today.

And as to Lord Oaksey's suggestion, the civilized states of the world should take up this matter—since he made the suggestion the UNO has busied itself with finding a definition of aggressor and aggressive war. It has utterly failed to evolve one that would be acceptable.

No, I do not think that this Tribunal will find it justifiable to move the mark.

The prosecution mentioned the defendant Warlimont in its closing speech particularly with respect to two charges—the Commissar Order and the Commando Order. The conclusions which it reached must necessarily be wrong as the facts which it quotes are not correctly stated. Warlimont and Lehmann were not responsible for the Commissar Order—and the prosecution knows that very well, for it submitted itself the draft which the OKH transmitted to OKW on the insistence of Hitler.

It is strange how in the presentation of the case by the prosecution, orders originate with subordinate offices and Hitler is entirely absent from the field. He is spirited away, vanished into oblivion.

That is particularly true with respect to the Commando Order. The prosecution characterizes the Commando Order as a radio announcement, without in the least mentioning that this voice from the ether was Hitler's voice. At the next step it leaves Hitler out again. He gave, through Jodl, the order that directives in writing should be prepared, while the prosecution invents the fable that Warlimont ordered Lehmann's department to submit a formal order. Warlimont, being inferior in rank to Lehmann, was entirely unable to give him any order. The story as told by the prosecution ends in the Commando Order being laid out in parts which are charged to the defendants, while the prosecution knows perfectly well that Hitler dictated the first draft, disapproved all other drafts and suggestions, and dictated the final order himself, including the distribution list; and that the letter of distribution was signed by Jodl, while the prosecution, against the evidence from its own documents, maintains that Warlimont distributed it.

I regret to take up the time of the Tribunal with these details. But after all—the purpose of every trial is to spread facts before

the court, to sift, to discuss them. The Tribunal knows that under German Law the prosecution is bound to submit also such facts as are favorable for the defendant. Is not under all laws—certainly under international law—the prosecution at least bound to state the facts accurately?

What I have just said of the facts does, of course, not apply to opinions. The Court knows the law, and the parties are free to develop their opinions as unorthodox and strange as they may be.

The prosecution made some remarks which were astonishing because they were advanced with the authority of the uniform of the U.S. Army. They relate to superior order. The prosecution emphasized repeatedly; no mitigation by superior order.

The prosecution starts from the concept, evolved around the IMT, its charter, its decision, and the law following this decision, that obedience to order is not a valid excuse. This concept as now propagated belongs to the same nonstatic state of international law which I mentioned in connection with the problem of aggressive war. If a vote were taken today on this subject and the Russian vote would not be counted there is very reasonable doubt as to what the result would be.

The British vote as voiced before this Tribunal was, “most emphatically, no.” No—that means no breaking of the tradition.

And this tradition is expressed by the greatest American authority on military law as follows (W. Winthrop, *Military Law and Precedents*, 2d Ed. 1920, p. 571) :

“Obedience to orders is the vital principle of the military life—the fundamental rule, in peace and war, for all inferiors through all the grades from the general of the army to the newest recruit. This rule the officer finds recited in the commission which he accepts, and the soldier in his oath of enlistment, swears to observe it. As in the British system, all military authority and discipline are derived from one source—the Sovereign, so in our army every superior, in giving a lawful command, acts for and represents the president, as the commander in chief and executive power of the nation, and the source from which his appointment and authority proceed. Hence the dignity and significance of a formal military order, and hence the gravity of the obligation which it imposes upon the inferior to whom it is addressed. The obligation to obey is one to be fulfilled without hesitation, with alacrity, and to the full; nothing short of a physical impossibility ordinarily excusing a complete performance.”

The consequence of this rule is (*loc. cit.*, p. 296)—

“That the act charged as an offense was done in obedience

to the order—verbal or written—of a military superior, is, in general, a good defense at military law.

* * * * *

“* * * for the inferior to assume to determine the question of the lawfulness of an order given him by a superior would of itself, as a general rule, amount to insubordination, and such an assumption carried into practice would subvert military discipline. Where the order is apparently regular and lawful on its face, he is not to go behind it to satisfy himself that his superior has proceeded with authority, but is to obey it according to its terms, the only exceptions recognized to the rule of obedience being cases of orders so manifestly beyond the legal power or discretion of the commander as to admit of no rational doubt of their unlawfulness.”

The author therefore advises the officer:

“Except in such instances of palpable illegality, which must be of rare occurrence, the inferior should presume that the order was lawful and fail to be held justified by a military court.”

The basic rule is obedience to order, the exception is the duty to disobey. The Tribunal will undoubtedly examine very carefully in each of the innumerable incidents brought before it as criminal acts, whether the subordinate was able and bound to recognize that a superior order was illegal, and what he did or could do to avoid obedience.

The prosecution has repeatedly stressed in the first part of its argument that criminal liability rests on two prerequisites: the act, committed by the defendant; and the intent of the defendant. The intent is strangely absent from the considerations of the prosecution in the later part of its argument. The prosecution avoids this subject when it is dealing, not with theories, but with the actual cases. For it has no understanding for the position of an officer in the Russian campaign, no apprehension of the constant strain experienced under a dictatorship. “Tacit sabotage is a myth.”

This sentence in the prosecution’s argument is most revealing. What is sabotage? Merely the throwing of bombs, the wrecking of machinery? Did the prosecution never hear that all resistance movements started with passive resistance? And what is tacit sabotage, but passive resistance?

I content that the defendant Warlimont went further than just passive resistance, that he actively strove to take the poison out of Hitler’s orders, that he, together with friends, tried to undo the harm which Hitler’s orders were intended to do. I am firmly convinced that the Tribunal, in weighing the facts which reveal his acts and his intent, will find him not guilty.

VI. CRIMES AGAINST PEACE—SELECTIONS FROM THE EVIDENCE ON THE CHARGES OF AGGRESSIVE WAR

A. Introduction

The indictment charged that, "the origin, development, and background of the crimes which the defendant herein committed, and the criminal plans in which they participated, may be traced through many decades of German militarism." (Par. 4.)

Selections from the evidence covering the period from 1919–1938 are included in section B. Section C contains selections from the evidence relating to the occupation of Austria and Czechoslovakia. Thereafter follow selections from the evidence concerning the wars of aggression in the chronological sequence in which they occurred (sec. D).

This evidence as reproduced herein has been arranged to follow the actual sequence of events as much as possible, rather than to attempt to follow the more devious course of the case as it developed concerning any individual defendant. Hence, because of the different assignments of the defendants, the defense material included does not follow the order in which the defendants are listed in the indictment. Evidence on behalf of those defendants alleged to have participated in the formulation and distribution of orders originating from the OKW or OKM (Warlimont, Lehmann, Reinecke, and Schniewind) precedes that offered on behalf of those defendants who were assigned to duties in the field.

A map has been included in section D 2 b, describing graphically the deployment of the attacking formations of the German ground forces in the campaign against Belgium, the Netherlands, and Luxembourg. It also indicates the command or staff assignments held by various defendants who participated in these campaigns.

The defendant Sperrle, who is not listed in this map, was Commander in Chief of the Third Air Fleet which was committed in the campaign against Poland and in the offensive in the West. At the beginning of the trial, the prosecution submitted a number of maps to the Tribunal as part of its, "Basic Information," on the organization of the German Armed Forces; they were, however, not presented in evidence.

The International Military Tribunal stated in the judgment that, "Evidence from captured documents has revealed that Hitler held four secret meetings to which the Tribunal proposes to

make special reference because of the light they shed upon the question of the common plan and aggressive war. These meetings took place on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939.” *

The same captured documents were introduced by the prosecution in the present case (386-PS, *Pros. Ex. 1033, section B 2, L-79, Pros. Ex. 1083; 798-PS, Pros. Ex. 1101; and 789-PS, Pros. Ex. 1153, in sections D 1 and 2*).

The defendant Schniewind participated in the meeting on 23 May 1939 (*Tr p. 4826*), and testified on the agenda of this meeting (see section D 1). The minutes of this meeting further list the defendant Warlimont as having attended (*L-79, Pros. Ex. 1083*). However, in his testimony, he disclaimed having been present (see Warlimont testimony in section D 3). Five of the defendants testified that they were participants in the meeting of 22 August 1939 (*Warlimont, Tr. p. 6367; Schniewind, Tr. p. 4843; von Leeb, Tr. p. 1874; von Kuechler, Tr. p. 2301; von Salmuth, Tr. p. 3920*). The meeting of 23 November 1939, was attended by four defendants (*Schniewind, Tr. p. 4884; von Leeb, Tr. p. 2450; von Kuechler, Tr. p. 2945; and Hoth, Tr. p. 3069*). Von Salmuth testified regarding his presence at this conference as follows: “* * * I don’t know whether I was there myself. One thing I know for certain, I am fully informed about what went on during that conference.” (See testimony of von Salmuth in section D 2 b.)

In the course of the trial, two other meetings were subsequently referred to by prosecution and defense: the meetings of 30 March and 14 June 1941. On 30 March, Hitler informed the generals of his intentions concerning Soviet Russia (*NOKW-3140, Pros. Ex. 1359* and testimony of General Halder, included in section D 3b). On this occasion, the defendants Warlimont (*Tr. p. 2950*), and Hoth (*Tr. p. 3077*), were present. On 14 June 1941, the final briefing for military operations against Soviet Russia took place and the generals gave their reports to Hitler before the attack. This meeting was attended by Warlimont and von Kuechler (*C-78, Pros. Ex. 1245, section D 3b*); von Leeb (*Tr. p. 2333*), and Hoth (*Tr. p. 3079*).

B. Development and Activities of the German Armed Forces, 1919 to February 1938

I. CONTEMPORANEOUS DOCUMENTS, 1919 THROUGH 1932—THE PERIOD OF THE WEIMAR REPUBLIC

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 188.

PARTIAL TRANSLATION OF DOCUMENT NIK-12160
PROSECUTION EXHIBIT 1408

EXTRACTS FROM THE PEACE TREATY BETWEEN GERMANY AND THE
ALLIED AND ASSOCIATED POWERS, SIGNED AT VERSAILLES ON
28 JUNE 1919, ON LIMITATIONS UPON GERMAN ARMAMENT

PART V
MILITARY, NAVAL, AND AIR CLAUSES

In order to render possible the initiation of a general limitation of the armaments of all nations, Germany undertakes strictly to observe the military, naval and air clauses which follow.

SECTION I—MILITARY CLAUSES

CHAPTER I
EFFECTIVES AND CADRES OF THE GERMAN ARMY

* * * * *

Article 160

(1) By a date which must not be later than 31 March 1920, the German Army must not comprise more than seven divisions of infantry and three divisions of cavalry.

After that date the total number of effectives in the army of the States constituting Germany must not exceed one hundred thousand men, including officers and establishments of depots. The army shall be devoted exclusively to the maintenance of order within the territory and to the control of the frontiers.

* * * * *

Article 168

The manufacture of arms, munitions, or any war material, shall only be carried out in factories or works the location of which shall be communicated to and approved by the governments of the principal Allied and Associated Powers, and the number of which they retain the right to restrict.

Within three months from the coming into force of the present Treaty, all other establishments for the manufacture, preparation, storage, or design of arms, munitions, or any war material whatever shall be closed down. The same applies to all arsenals except those used as depots for the authorised stocks of munitions. Within the same period the personnel of these arsenals will be dismissed.

* * * * *

Article 170

Importation into Germany of arms, munitions, and war material of every kind shall be strictly prohibited.

The same applies to the manufacture for, and export to, foreign countries of arms, munitions, and war material of every kind.

Article 171

The use of asphyxiating, poisonous, or other gases and all analogous liquids, materials, or devices being prohibited, their manufacture and importation are strictly forbidden in Germany.

The same applies to materials specially intended for the manufacture, storage, and use of the said products or devices.

The manufacture and the importation into Germany of armoured cars, tanks and all similar constructions suitable for use in war are also prohibited.

* * * * *

Article 179

Germany agrees, from the coming into force of the present treaty, not to accredit nor to send to any foreign country any military, naval, or air mission, nor to allow any such mission to leave her territory, and Germany further agrees to take appropriate measures to prevent German nationals from leaving her territory to become enrolled in the army, navy, or air service of any foreign power, or to be attached to such army, navy or air service for the purpose of assisting in the military, naval, or air training thereof, or otherwise for the purpose of giving military, naval, or air instruction in any foreign country.

The Allied and Associated Powers agree, so far as they are concerned, from the coming into force of the present treaty, not to enroll in or to attach to their armies, or naval, or air forces any German national for the purpose of assisting in the military training of such armies, or naval, or air forces, or otherwise to employ any such German national as military, naval, or aeronautic instructor.

The present provision does not, however, affect the right of France to recruit for the Foreign Legion in accordance with French military laws and regulations.

* * * * *

Article 190

Germany is forbidden to construct or acquire any warships other than those intended to replace the units in commission provided for in Article 181 of the present treaty.

The warships intended for replacement purposes as above shall not exceed the following displacement:

Armoured ships	10,000 tons,
Light cruisers	6,000 tons,
Destroyers	800 tons,
Torpedo boats	200 tons.

Except where a ship has been lost, units of the different classes shall only be replaced at the end of a period of 20 years in the case of battleships and cruisers, and 15 years in the case of destroyers and torpedo boats, counting from the launching of the ship.

Article 191

The construction or acquisition of any submarine, even for commercial purposes, shall be forbidden in Germany.

* * * * *

SECTION IV—INTER-ALLIED COMMISSIONS OF CONTROL

Article 203

All the military, naval, and air clauses contained in the present treaty, for the execution of which a time limit is prescribed, shall be executed by Germany under the control of Inter-Allied Commissions specially appointed for this purpose by the Principal Allied and Associated Powers.

* * * * *

Article 208

The Military Inter-Allied Commission of Control will represent the governments of the principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the military clauses.

In particular it will be its duty to receive from the German Government the notifications relating to the location of the stocks and depots of munitions, the armament of the fortified works, fortresses and forts which Germany is allowed to retain, and the location of the works or factories for the production of arms, munitions and war material and their operations.

It will take delivery of the arms, munitions, and war material; will select the points where such delivery is to be effected; and will supervise the works of destruction, demolition, and of rendering things useless which are to be carried out in accordance with the present treaty.

The German Government must furnish to the Military Inter-Allied Commission of Control all such information and documents as the latter may deem necessary to ensure the complete execution of the military clauses, and in particular all legislative and administrative documents and regulations.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NIK-11981
PROSECUTION EXHIBIT 1411

MEMORANDUM BY OTTO VON STUELPNAGEL, 20 SEPTEMBER 1924,
CONCERNING REVISION OF THE HAGUE CONVENTION AND
ENVISAGING POSSIBILITY OF TOTAL WAR WITHIN 10 OR 20 YEARS

Strictly confidential!

20 September 1924

Preparation for a new Hague Conference

A new Hague Conference will be held, just as special meetings of various nations have already taken place, in order to consider certain questions (Red Cross, Air War Agreement in The Hague, etc.). Great interest is being shown everywhere in these questions. Since a new Hague Conference has, so far, not been convened, other organizations not entitled to take such a step are already concerning themselves with these problems. For instance, the Red Cross is dealing with the law applicable to prisoners of war, a problem which is beyond the limits of its competency.

Germany, in view of the present development of the political situation, will have to take part in a new Hague Conference. We see the time approaching when Germany will be obliged to join the League of Nations (see course of the present conference of the League of Nations in Geneva). A refusal to participate in a new Hague Conference will then be made impossible. Even without entering the League of Nations, the refusal to accept an invitation for a reorganization of the Hague Conference, would only be used to Germany's detriment for propaganda purposes by our ex-enemy nations, and would again be misrepresented as malicious intentions on the part of Germany.

I therefore agree with the Foreign Office that the necessary preparations for a new conference will have to be made in order to be ready and to avoid being unprepared if suddenly faced with such a formidable task, however difficult it may be to undertake certain military commitments at the present time.

* * * * *

The demands made by purely military powers during former Hague Conferences were always opposed by these small states

who strove to secure for themselves a position most favorable for a defensive war. They advocated as much restriction as possible in the use of war appliances which the purely military states possessed to such a large extent. On the other hand they were strongly in favor of permitting as far as possible the cooperation of quickly organized detachments in the event of a people's war, in order to offset the superiority of the organized armies of military powers.

Therefore, the first basic question to be answered is: What attitude should the German delegation take at a new Hague Conference?

The following questions therefore require consideration:

(1) *Does the possibility of a struggle for liberation exist in the not too distant future and is it necessary accordingly to ensure the possible use of all technical and organizational means?* [Italics in original.] For instance, the unrestricted participation of the entire population in the war and in the military operations, the application of aerial warfare against the population, against open towns, against factories; the ruthless application of chemical weapons against the hostile army and the population, the unrestricted trade war, etc.

(2) *Is it likely, in view of the expected development of the political situation in Germany, that within the next 10 or 20 years it will be possible to take all organizational measures so that all technical resources for a large-scale war can be made available in a short time,* [italics in original] thus enabling us to enter into the struggle with approximately the same strength and type of equipment very soon after the outbreak of the war? On the other hand, assuming that we act on the basis mentioned under (1), the enemy will immediately and ruthlessly employ his extensive technical means of power and frustrate the establishment of any German organization, planned in the last moment.

(3) *Can we, in consideration of the present political situation, at all afford to advocate a ruthless use of force?* [Italics in original.] Is this not likely to result in another hate-campaign against Germany, in a new and more intensive measure of control and a closer coordination of our enemy nations? The ex-enemy powers, quite aware of their present military superiority, will undoubtedly advocate a strictly regulated conduct of war and lay the greatest stress upon observance of all laws of humanity.

To begin with, such fundamental questions would have to be cleared; then the individual problems will have to be dealt with and studied point by point. The best method would be to examine and study the individual articles of the present Hague Convention, to see in how far they furnish clear instructions which were

applied during the war, how far they do not correspond to modern warfare and for that reason cannot be adhered to, where gaps existed, which questions had not yet been touched upon and codified at all. The next step would be to consider what attitude we should take with regard to each individual question, to consider our interest and finally to suggest proposals for a new formulation. The latter will have to be considered jointly with the Foreign Office.

Owing to its difficult nature and the differences in diplomatic and military interests which are most likely to arise, the whole task will require a considerable amount of time. In order to achieve positive results quickly, it will be wise to deal first of all with those questions, for the solution of which a certain amount of ground-work has already been covered, i.e., the work of the Parliamentary Investigation Committee. The following, for instance, belong to these questions:

a. Gas warfare

b. Aerial warfare

c. People's war

d. U-boat war

e. The question concerning the destruction of stretches of land and villages.

These are the questions in which we military men are, above all, interested.

* * * * *

In order not to forestall the judgment of the competent departments, I deliberately refrain from stating any definite opinion on the fundamental questions in connection with my suggestions, though I have formed my own opinion.

The work should begin as quickly as possible, because the convening of a Hague Conference may be near at hand.

* * * * *

[Signed] VON STUELPNAGEL (OTTO)
Lieutenant Colonel

PARTIAL TRANSLATION OF DOCUMENT NIK-11715
PROSECUTION EXHIBIT 1412

MEMORANDUM, 6 DECEMBER 1925, CONCERNING TRIP OF THE
CHIEF OF THE ARMY COMMAND TO THE RUHR,
24-28 NOVEMBER 1925

TOP SECRET

Adjutant

175 Pers.

Berlin, 6 December 1925

Memorandum on the trip of the Chief of the Army Command* to the Ruhr, 24–28 November 1925.

Verbal discussion of His Excellency about the journey with Herr Krupp von Bohlen. Fixing of the program by the Ordnance Office with the most important plants of the Ruhr territory taking into special consideration the firms qualified for the armaments industry.

Changes were made because of an accident which befell Herr Krupp von Bohlen. The inspection of the Krupp settlements and of the city of Essen was dropped, instead the August Thyssen-foundry at Bruckhausen near Hamborn was inspected.

Tuesday 24 November: 11 a.m. arrival at Essen

After a short reception by the Krupp Aufsichtsrat, lecture on the development and installation of the plants. Inspection of the Fahr department Krupp for the manufacture of agricultural machinery.

Inspection of the head office. Breakfast in the "Hunger-tower."

Reception of His Excellency in the name of the firm of Krupp by Geheimrat Wiedtfelt.

Afternoon:

Visit to workshops. Subsequently discussion in the building of the main administration. Present were: His Excellency, Geheimrat Wiedtfelt, Geheimrat Baur, Director Oesterlen (technical manager), Director Buschfeld (financial manager). Discussions were led mainly by Director Oesterlen. Description of the destruction through measures of the Inter-Allied Military Control Commission. Damages are calculated at 105 mill. gold marks, only small compensation by the Reich conversions.

Installation of the plant working for the armament industry. Readiness of Krupp to oblige the military administration in order to gain experience in the designing. Utilization of important persons and designing offices. Timely information by the military administration about armament intentions and scope.

Moving of the armament industry to Central Germany (Buckau). Here production of unprocessed parts for armament purposes, which can also be used elsewhere in industry. Costs of moving estimated at 10 mill. marks.

Utilization of the firm Bofors Sweden which is connected with Krupp, especially for production of tanks. Proposal that information be given soon as to type of tank. Testing at Bofors by production and sale of models abroad.

* General Hans von Seeckt.

Present foreign connections: Hungary, very reserved; Turkey, impossible demands, no ability for decision. South America, there seem to be prospects.

Evening:

Meal at the Huegel.

* * * * *

Thursday 26 November

Drive to Dortmund. Movie show about the present position of the German-Luxembourg Bergwerks- und Huetten A.G. Inspection of the plant of the Dortmunder Union. Breakfast with Director General Dr. Voegler.

Afternoon:

Drive to Bochum. Lecture on the Bochumer Verein. Inspection of the steel and tube rolling mill Bochum and of the projectile plant (ready for production probably in January 1926). See enclosure 36. Guide: Director General Borbet.

Evening:

Meal at the club of the Bochumer Verein.

Friday 27 November

Drive to Bruckhausen near Hamborn to the August Thyssen Foundry. Lecture on the plants and on the extended armament rights of the firm Thyssen. Favorable situation near the waterway. Gas supply of the Ruhr territory (gas generation in the same quantity as Berlin). Inspection of the coking plants, steel plant, rail rolling mill installations. Guide: Director Lenze.

Breakfast at the officials' mess. Present were: August Thyssen, Geheimrat Wiedtfelt, Director Lenze and Bortschner, Oberbuergermeister Rotendahl (Hamborn), Hans Thyssen.

Afternoon:

Inspection of the Krupp-Mine Hannover $\frac{3}{4}$ [sic] at Guenningsfeld near Bochum. Day installations and the equipment for the extraction of byproducts (nitrogen, Thomas flour for agriculture).

Evening:

Dinner at the Huegel in a small group. Talks with Geheimrat Wiedtfelt, Ehrensberger, retired Landrat von Wilmowski.

Saturday 28 November

Drive to Duesseldorf. Krupp firm represented by Director Emerich. Inspection of the Rheinmetall plant. Guide: Director General Eltze. Tube rolling mill, locomotive plant, gun plant (being

built). See enclosure 5. Works council (Betriebsrat) of the plant asks for interview, requests help by allocation of labor.

Breakfast with Kommerzienrat Trinkaus. List of attendance, see enclosure 6.

Impressions

General: In all quarters complaints about economic depression for the greater part, very serious views about the future. Besides the internal situation above all the value of the franc is given as the reason which makes it possible to produce pig iron in France much more cheaply. (According to Dr. Voegler, the lowering of the franc decided the financial policy of France.)

In addition to patriotic sentiments, probably these serious prospects for the future are the reason for the cooperation with and great confidence in the army command which was obvious everywhere.

Workers: Behavior correct, faces showed surprise, curiosity, no signs of being stirred up. The numerous dismissals have probably hit the most discontented elements.

Krupp: The enterprise which had suffered most by the enforced changeover, at present still employs 17 thousand workers, of which only a part are occupied. Impression as though the newly installed plans cannot get started properly, stagnant. Production of agricultural machines will be restricted because of the lack of funds in agriculture. Sale to Russia cannot be very great at present. The Manytsch-Lease (of 100 thousand acres approximately only 15 thousand fully utilized up to now) still demands subsidies. The production of locomotives has already suffered a considerable setback owing to the limitation of orders by the railroad administration. One gets a more favorable impression from the motor vehicle construction and its branches.

Management: In addition to the mentally outstanding personality of Geheimrat Dr. Wiedtfelt, Director Oesterlen (technical manager, collaborator on the 42 cm gun), and Buschfeld (Finance) appear to be personalities with the greatest energy, who perhaps at times do not suit many of the older men who originate from a more dignified, peaceful period.

Dortmunder Union and Bochumer Verein: Both under the influence of the leading important personalities, Dr. Voegler, and/or Borbet, installation of the works not so far seeing as Krupp, any possible expansion limited by city and railroads. In spite of lack of work there is the impression of pulsating activity. The many new buildings of the Bochumer Verein might contribute towards this favorable impression.

Thyssen Foundry: The owner August Thyssen is said to be still the greatest optimist of the whole of the industrial area, "we have the best engineers and workers in the world." During the visit he also complained about the situation. It is hard to judge how far this is justified in his plants which work mainly on the generation of gas from coal. The works and the very widespread rail rolling mill installation made a busy and lively impression on the onlooker.

Rheinmetall Duesseldorf: The plant with apparently the least activity of all those visited [makes] a dead impression. The locomotive workshop is to be dismantled after small order still on hand has been settled.

Other workshops have already been closed down. Most of the shares are owned by the Reich, so it has a majority over Krupp, the next largest shareholder. Rheinmetall has received the largest share in the production of guns for army and navy by the Allied Military Control Commission.

Discussion with office chiefs on 3 and 5 December 1925: (as far as the journey of His Excellency is concerned). Present were: Major General Wurtzbacher, General Hasse, v. Haack, Baron von Bolzhain, Wetzell.

Fixing for spring of the model of a "German tank." The designing period of 9 months considered necessary by the ordnance office must be shortened.

The industry is obliging towards the army administration. Krupp von Bohlen's change of opinion. Willingness of the leading personalities, structure of the administration Krupp: Aufsichtsrat, Directorate, general meeting.

Utilization of the still existing designers and offices of Krupp for new construction and alteration.

Timely information to the industry regarding armament intentions, new introductions and scope. Moving of the armament industry to central Germany (Grusonwerk Magdeburg-Buckau). Industry willing to move. No production of guns etc., here, which need not be kept secret anyhow, but preparation of raw materials (small blocks) and equipment for same. Connection between Krupp and Bofors Sweden. Here manufacture of tank models, sale to foreign countries for the purpose of trying them out.

Possible utilization of Krupp installations near Munich. Short description of the visit in Dortmund and Bochum. Dr. Voeglein and Borbet.

Bad state of Rheinmetall. No money to firms which cannot make their way. As far as possible greater centralization of armament orders. Exclusion of smaller firms. Maintenance of a healthy competition, not to base everything on one firm.

TRANSLATION OF DOCUMENT NIK-10202
PROSECUTION EXHIBIT 1449

TWO MEMORANDA ON COMMENCEMENT IN 1926 OF TANK
DEVELOPMENT BY KRUPP

24 January 1942

*Development of Armored Combat Vehicles (Turrets)**

In the fall of 1926, Krupp entered the development of armored combat vehicles [tanks] with the design and construction of the "heavy tractor" with 7.5 cm. guns. In this development the fundamental design of the turret as retained to this day was suggested by Krupp on the basis of past experiences. Above all Krupp laid the foundations and led the way in the development and welding of armor plate. Thus, Krupp originated the location of the turrets in the center of the vehicle, which provides the steadiest firing position; and equally the polygon form of the turrets now in general use, in contradistinction to the cone form, which is difficult to manufacture and which the Army Ordnance Office tried to introduce. Krupp also continued to supply suggestions on the basis of past experience with regard to selection of caliber and penetrating power. The 3.7 cm. caliber was accepted at the time in preference to the 5 cm. caliber recommended by Krupp. Krupp ideas exclusively underlie some important features of the tank turret, such as electrically operated firing to decrease the time lag in firing, electric safety switch for the protection of the gunner, a hydraulic emergency switch for the safety of the vehicle and the crew in case of damage to the recoil buffer from gunfire or loss of brake fluid. The ventilation of the combat compartment and the disposal of the cartridges to guard the crew against the poisonous residual powder fumes also originated with Krupp. Further, Krupp proposed and developed the electrical traversing device according to the presently adopted principle of speed regulation, after the electrical system suggested at the time by the Army Ordnance Office and the operating system chosen by Rheinmetall had proved failures.

In other words, with the exception of the hydraulic safety switch, the basic principles of armament and turret design for tanks had already been worked out in 1926 in the case of the "heavy tractor."

Do/Ri

[Signed] DORN

*History concerning the development of army guns between 1918 and 1933 by the Krupp firm appears in a Krupp report entitled, "The Artillery Designing Department of Friedrich Krupp A.G. and the Development of Army guns from November 1918 to 1933," lengthy extracts of which are reproduced in Vol. IX on the Krupp Case (NIK-9041, Pros. Ex. 146). The report was also introduced in evidence in the High Command Case (NIK-9041, Pros. Ex. 1448).

23 January 1942

Armored Combat Vehicles [tanks] and Self-propelled Gun
Mounts at the Firm Friedrich Krupp A. G.

The firm of Friedrich Krupp played a pioneering role in the development of combat vehicles in Germany since the earliest beginnings in 1926. After the preliminary experiments with the "heavy tractor," "light tractor," and L.S.K., the LaS [Panzer I] was developed and built in series by the firm of Friedrich Krupp as the first German armored combat vehicle, (alternatively equipped with air-cooled Friedrich Krupp engine or watercooled Maybach engine). Four subcontractors built the LaS to our designs and specifications and were enabled thereby to work out their own designs for new types of armored combat vehicles.

Krupp also had a share in the development of the medium tanks, type LaS 100, as well as in the development of amphibious armored combat vehicles and self-propelled gun mounts. Above all, the design of the B.W. [Panzer IV] was carried out by the Krupp firm and constantly improved (almost without any help from the development and testing group for armored vehicles and tanks of the Army Ordnance Office). In this the fighting potential was raised by increasing the thickness of the armor and the firepower of the guns, as well as by adapting the vehicle to amphibious and tropical service. The B.W. has stood the tests in the various theaters of war in respect of performance and dependability in operation extraordinarily well and has largely contributed to the successes of the motorized units. The output was constantly raised, including that of subcontractors. As the successor of Panzer III (later of Panzer IV) V.K. 2001 and V.K. 2002 were developed in accordance with the most recent experience.

Besides combat vehicles, various types of armored self-propelled gun carriages carrying heavy guns were designed and built as support artillery for tanks when attacking bunkers and supporting infantry.

Woe/Ri

[Signed] WOELPERT

TRANSLATION OF DOCUMENT NIK-12023
PROSECUTION EXHIBIT 1414

INTEROFFICE MEMORANDUM OF REICH DEFENSE MINISTRY,
18 JANUARY 1927, CONCERNING ILLEGALITY
OF MOBILIZATION MEASURES

Armaments Office
18 January 1927
Office Chief Staff Chief
[Initials and dates illegible.]

T 2

No 51/27 Top Secret "z" T 2 III

To the T.A.

Subject: Legal situation in the sphere of preparations for mobilization

[Stamp] Top Secret

At the moment the problem of the possibility of continuing the *work on national defense* under a new government and after the beginning of the new budget year is under consideration in several offices of the army command. There are no particular difficulties attached to officially permissible work on national defense. It is a different matter in the case of work which, in the meaning of the Versailles Treaty, constitutes "*Preparation for Mobilization*".* The offices of the firm continually stress in general the difficulties which could arise in the sphere of internal policy and the army budget. These difficulties are actually present. Basically, however, they are merely the outcome of the fact that Germany is forbidden to make preparations for mobilization by an enforced State treaty and that this State treaty, as a German Reich Law, is also valid within the State. The fact that the Treaty of Versailles has been made valid as a law in Germany results in the fact that *preparations for mobilization have no sort of legal foundation.*

This fact is generally forgotten. It has to date played absolutely no outwardly recognizable role within the army. The preparations are being kept increasingly secret, but for the rest are being treated in exactly the same way as other legitimate work.

When, years ago, preparations for mobilization were started, after the clarification of the international and constitutional legal aspect of the affair and in full recognition of the fact that in no respect was any legal foundation present, other means were knowingly and purposefully used. A few serving officers were asked whether they would be prepared and whether their conscience would permit them to participate in activities which were necessary from the point of view to their Fatherland *but contrary to the law.* The military offices as such were bypassed. High-ranking officers did not participate openly, so that they did not have to bear the odium of a conscious breach of the law. In important fundamental matters they issued directives *sub rosa* to individual

* Described in the official German translation of the Treaty of Versailles as, "Mobilization measures".

confidential agents. Officially permissible work was sharply distinguished from the illegal preparations for mobilization, which was knowingly and purposefully given the stamp of a *private job, voluntarily undertaken*.

Considered from a *purely legal* point of view, this procedure was, from the standpoint of constitutional as much as of civil law, the only one possible, and above all the one that could be carried through for a long period. *Objectively*, the method was unsatisfactory from the beginning. The material defects became more apparent every year. The recognition of the *material* defects led to constant improvements being made in the organization of the preparations for mobilization and the methods of work. It was eventually brought to practically the same level of perfection as in states which are not under any international or constitutional obligations as regards armaments and preparations for mobilization. The degree of preparation for mobilization thus attained did not, of course, correspond to the expenditure of time and energy. Details do not belong within the framework of this report.

A survey of the development in latter years leads to the recognition of the amazing progress of a purely military nature which we have made in the organization of preparations for mobilization and in working methods. The situation is now as follows: *Everything is on a purely official basis*, even down to the administrative decisions. Illegal preparations for mobilization are distinguished from other permissible work only in that they are camouflaged and kept secret both in Germany and abroad. This *material* and extremely satisfactory result was possible because the legal aspect of the question was knowingly disregarded. Up to now, this disregard for the legal position has not led to real disadvantages or difficulties. This state of affairs may change at any time. Even the near future may bring considerable difficulties.

The impending discussions with the Reich Cabinet on the type and scope of future preparations for mobilization, the planned proposal of the Reich Ministry of Defense for the creation of a counsel for the defense of the Reich and the discussions in the Budget Committee of the Reichstag will certainly broach the subject of the international and constitutional legal basis of any preparations for mobilization. A thorough investigation will take place. The administrative and civil legal aspect of the preparations for mobilization will very probably also be examined.

For this reason alone, a thorough investigation of the legal position is essential. There are, however, other reasons which render it necessary, namely purely military and in particular disciplinary ones.

This will be most vividly illustrated by a comparison between the period when preparations for mobilization were being recommenced after the war, and the present day.

When the preparations for mobilization were recommenced, the work was in the nature of an expressly voluntarily undertaken private task.

As they lacked any legal foundations and had to be kept very secret and strictly separate from permitted preparations, the active officers participating in these preparations constituted, collectively, a voluntary association of persons sharing the same convictions, a voluntary action group pursuing the same objective. Legally, it was an alliance of persons for the purpose of jointly violating the law. Voluntary subordination to the orders of superiors was demanded. Obedience was voluntary, as each participant (conspirator) felt himself bound by the "sacred cause," and knew that the superior lacked any legal basis for his orders and that, in case of disobedience, the subordinate could not be called to account on the basis of the military penal code, nor could the procedure governing disciplinary action be invoked. The whole was a community founded on the holy zeal and spirit of an order. The same spirit imbued the officials and employees (former officers, draughtswomen, women record clerks, and typists) who had been enlisted for mobilization preparations.

Today, preparations for mobilization are official matters performed in line of duty just like any others. The degree to which the blurring of the existing fundamental distinction between the lawful tasks of the army and the illegal preparations for mobilization, which had no legal basis whatever, has been successful, is admirable. But the gulf is there and in future we shall certainly be made acutely aware of it. Government and Parliament will daily demonstrate it to us.

Even in daily army life, the legal distinction between the two fields of work can, all of a sudden, emerge very starkly. Unfortunately, many officers feel frank discussion of the topic to be disturbing and dangerous. Notwithstanding this, the question will be frankly dealt with here. Considered from the *purely legal point of view*, the position is as follows:

a. Every soldier or official ordering, directing or executing preparations for mobilization is guilty of violating a Reich law and thus of infringing the military or official duties incumbent on him. A malevolent critic could even reproach him with violating his soldier's oath or oath of office. The oath of office contains the explicit obligation to obey the laws. The soldier's oath does not contain these actual words but it does contain the pledge "to protect

lawful institutions," which, in a wider sense, can be taken to mean the laws themselves.

b. Every superior ordering anything pertaining to mobilization abuses his executive power, since an order cannot be directed towards an unlawful activity. The subordinate is therefore not bound by duty to obey such an unlawful, and therefore not legally, binding order. He cannot be called to account for failure or refusal to obey by disciplinary action nor by way of prosecution. It would rather be his duty to report through official channels such unlawful conduct of his superior or any other unlawful conduct of other superiors and fellow soldiers as he may have observed.

c. Since a binding order regarding preparations for mobilization could not have been issued at all, as explained under b, it further follows that the application of military or other administrative regulations to such preparations cannot be ordered in line of duty. Orders of this type, like all executive orders, are not legally binding; referring as they do to unlawful measures, they lack any legal foundation.

The above exposition is not the result of information recently gained. The competent legal experts had appraised the legal position in this light as early as the winter of 1920-21 when preparations for mobilization were resumed. They urged that the preparations for mobilization be treated as a *purely private matter*.

To make quite sure, T 2* has had this elaboration examined by legal officer I. It fully endorses the statements from the legal point of view.

T 2 will submit proposals for a change in the organization of the preparations for mobilization. T 2 believes that, *in principle*, the procedure adopted in resuming preparations for mobilization after the war should be reverted to. The organization for national defense also requires modification on purely legal grounds as it will not be *legally* tenable in its present form for any length of time. Proposals to this end will also be submitted.

Copy for information
Armament Office

[Signed] VON BONIN
Lieutenant Colonel
18/1

PARTIAL TRANSLATION OF DOCUMENT D-223
PROSECUTION EXHIBIT 1420

LETTER FROM MINISTER OF DEFENSE TO FRIEDRICH KRUPP
A.G., 15 OCTOBER 1932, CONCERNING CONSTRUCTION
OF MEDIUM TRACTORS

* Section of Truppenamt (Troop Office) dealing with organizational questions within the army; cf., testimony of Lt. Gen. Adolf Heusinger, in section IV.

Minister of Defense
No. 345/32 Wa Prw 6 V
Please state number and
contents in your reply.

Berlin W 10, 15 October 1932
Koenigin Augusta Strasse 38/42
Telephone: Local C 1 Steinplatz
0012
Long Distance: C 1 Steinplatz
6265

Confidential

Registered

To: Friedrich Krupp A.G., Department A.K., Essen

Subject: Construction of Medium Tractors
2 Enclosures

[Stamp]

18 October 1932/10960

Answered:—

The Krupp A.G. is hereby asked to begin constructive research of a new type of tractor—to be referred to in the future as “medium tractor” (M.Tr.), in accordance with the specifications stated in the enclosure.

The basic specifications for the design are—

1. Increase of armament to 1 cannon and 4–5 machine guns.
2. Total weight not to exceed 15 tons.
3. Armor safe at least against 2 cm. weapons.

4. Creation of a vehicle, with approximately the same length of ground contact as the heavy tractor [Gr. Tr.] which we have had till now; otherwise decrease in the height, so as not to present a large target and to keep the armored surfaces small.

Before detailed function (going beyond the ones stated in the enclosures) are discussed, it should be ascertained, whether, or how far the above mentioned main specifications (as to space and weight) can be met.

You are asked to submit a bid for the construction.

BY ORDER:

[signature illegible]

Captain and Deputy Department Chief

* * * * *

PARTIAL TRANSLATION OF DOCUMENT C-156
PROSECUTION EXHIBIT 1020

EXTRACTS FROM "THE FIGHT OF THE NAVY AGAINST
VERSAILLES, 1919-1935"* DEALING PRINCIPALLY
WITH CONCEALED REARMAMENT

Copy No. 274

Service Publication No. 15

SECRET!

The fight of the Navy against Versailles 1919-1935

Edited by Captain Schuessler (Navy)

Published by the High Command of the Germany Navy
Berlin 1937

Navy Manual No. 352

Preface

The object and aim of this memorandum is to draw a technically reliable picture based on documentary records and the evidence of those who took part, of the fight of the navy against the unbearable regulations of the Peace Treaty of Versailles.

It shows that the Reich Navy after the liberating activities of the Free Corps and of Scapa Flow did not rest but found ways and means with unquenchable enthusiasm, in addition to the building up of the 15,000-man navy, to lay the basis for a greater development in the future and so to create by the work of soldiers and technicians the preliminary condition for a later rearmament.

It also stresses more clearly the services of these men, who—without being known in wide circles—applied themselves with extraordinary zeal and responsibility to the task of the fight against the peace treaty; thereby, stimulated by the highest feeling of duty, they risked, particularly in the early days of their fight, themselves and their positions unrestrainedly in the partially self-ordained task.

This compilation makes it clear, however, that even such ideal and ambitious plans can be realized only to a small degree if the concentrated and united strength of the whole people is not behind the courageous activity of the soldier. Only when the Fuehrer had created the second and even more important condition for an effective rearmament, by the coordination of the whole nation and in the fusion of the political, financial, and intellectual forces, could the work of the soldier find its fulfillment.

* Parts of this document were also introduced in the Krupp Case as Document C-156, Prosecution Exhibit 139, and some extracts not reproduced here, appear in the materials on the Krupp Case, Vol. IX, this series. Extracts from this document also appear in Nazi Conspiracy and Aggression, *op. cit. supra*, vol. I, pp. 421-426; vol. II, pp. 332-333, 849-850; vol. VI, pp. 970-971.

The framework of this peace treaty, the most shameful known in world history, collapsed under the driving power of this united will.

The Editor

Pillau, 20 April 1937

Summary of Contents

- I. First defensive actions against the execution of the Treaty of Versailles. (From the end of war to the occupation of the Ruhr 1923.)
* * * * *
- II. Independent armament measures behind the back of the Reich government and the legislative bodies. (From 1923 to the Lohmann Case 1927.)
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- III. Planned armament works tolerated by the Reich Government, but behind the back of the legislative bodies. (From 1928 to the seizure of power 1933.)
- IV. Rearmament under the leadership of the Reich government in camouflaged form. (From 1933 to the liberation from armament restriction 1935.)

- I. First defensive actions against execution of the Treaty of Versailles

(From the end of the War until the occupation of the Ruhr 1923)

The World War was lost. The cruel terms of an armistice, which was unique in world history, weighed heavily upon a navy, the development of which was thereby thrown back for decades; these terms were carried out reluctantly by the few disciplined soldiers. A forced peace treaty was to bring new crushing terms.

The fluctuations in German history throughout the course of centuries have shown that the German was always strongest when he was worst off. The active bearers of the naval traditions trod with unbroken spirit and far from despairing into the future alone, the difficult road which led upwards from that moment when they had decided to carry on.

The same *esprit de corps*, which led to the development of the Free Corps as the nucleus for personnel replacement, and which was able to maintain and use as training establishments the over-aged ships left to us,—this same spirit animated those German men called upon to carry out the peace treaty, who in a quiet but

tenacious struggle with the enemy control commissions, tried to keep valuable material for the German people and to save it for a better future.

1. Saving of coastal guns from destruction

North Sea defenses

The Peace Treaty of Versailles—hereinafter termed VT—provided that the North Sea fortifications with the exception of Helgoland were to be retained by Germany both with the same armament and in the same condition as they had existed when the VT became effective. This provision caused the German admiralty then in office to try to reinforce the existing state of the coastal defenses during the period from the publication of the wording of the VT (published in Reich Law Gazette No. 140, 12 August 1919) and the day of the signature of the VT; this measure was enthusiastically accepted and carried out by all echelons of command. In this connection, particularly outstanding services were rendered by Lieutenant Commander Hoenicke, Naval Ordnance Captain Kaiser, and Naval Ordnance Lieutenant (s.g.) Asmus.

Unfortunately, both funds and time necessary to carry out those measures in a technically and militarily correct way were lacking. A large number of new batteries were constructed with the utmost speed, but the emplacements were in the opinion of experts, technically impossible in many cases and the material quite insufficient; these batteries were armed with guns which came partly from the western front, partly from the dockyards. Existing batteries were rearmed with more efficient guns of more modern types of construction or of larger calibers.

On the other hand it had happened during the long period before the wording of the VT was published, that many batteries—mainly located on the land fronts between Wilhelmshaven and Cuxhaven and on the islands—which had actually been armed during the war, were dismantled and leveled down in order to use the sites for agricultural purposes or to protect the guns from theft. In these cases, more modern and heavier guns were entered in requisition on the lists of the German Government instead of the old guns of small caliber which had actually been emplaced there.

Lieutenant Commander Witzell

A difficult task developed for Lieutenant Commander Witzell, who was at that time appointed gunnery officer of the fortress Wilhelmshaven and who also became a member—later the chief—of the Mabef, a subcommission of the naval peace commission. It was his task to prove to the members of the commissions of the

Allied Powers—who frequently inspected the batteries very thoroughly—that both the completely newly constructed batteries and those which had been leveled down had actually existed at the end of the war and had then been armed with the guns reported in the lists of the government. The basis of the negotiations was the list—submitted to the Allied Powers—of the material authorized for the North Sea batteries. Lieutenant Commander Witzell suggested to waive from the beginning at least that part of the batteries which was untenable in the negotiations because they had been constructed absolutely incorrectly from a technical point of view; thus he wanted to avoid making the commissions suspicious and jeopardizing the fate of the rest of the batteries. This suggestion was, however, not accepted by the Admiralty in Berlin.

Lieutenant Commander Witzell's system of giving information

In these circumstances, it was necessary to evolve and to adhere to a well considered, difficult, and highly centralized system of giving information to and of negotiating with the commissions; it was necessary that this system was also adapted to these batteries which had been constructed in a particularly hostile manner in order to cause as little suspicion as possible.

The following reasons were given for the very improvised and therefore often inconvincing condition of many batteries: During the last months of the war, a thrust into the German gulf had been expected as a reaction to the German U-boat warfare. Coastal defenses had, therefore, been reinforced in great haste by guns which had been withdrawn from the Flanders front or could be dispensed with in ships. Little time had been available for this reinforcement and most experts had been detained at the Flanders front or abroad. Thus, the strengthening of the German North Sea coastal defenses had partly been effected in such a way that an expert could only shake his head about it.

To give a rather unfortunate example: In several batteries of particular importance, heavy railroad guns had been emplaced in such an inconvincing way that it was extremely difficult to convince an expert that such batteries could fire at objects on the sea at all. In the case of a particularly valuable battery armed with 38 cm guns, the only way out, involving a great amount of work, was to compile for each gun a particular gunnery record for map fire toward the sea, and these records had to be given back dates corresponding to the times in which it had allegedly been intended to use the battery.

Drawings of batteries

It is obvious that it was necessary to create the impression that all batteries contained in the lists had actually been able to fire,

and to avoid any discrepancies between the information submitted, the installations inspected on the spot, and the drawings which were handed over. The request to submit detailed battery drawings could only be complied with step by step and with the utmost caution. It would have been bad policy to hand over complete drawings of unobjectionable [einwandfrei] batteries, as it was necessary not to create suspicion by refusing drawings of those batteries in which the guns were faultily emplaced with regard to their readiness to open fire. On the other hand, there existed a strong military interest in submitting only those data concerning the most important thicknesses of concrete in reinforced batteries which the commissions could ascertain themselves by inspection from the outside.

It was therefore alleged that most of the drawings had been destroyed during the revolution so that the German departments were forced to produce new drawings by measuring the thicknesses of the constructions, which could only be done step by step.

On the other hand, it was pointed out that according to the peace treaty it was prohibited to remove the superimposed earthworks, so that it was not possible to ascertain the thickness of concrete in those parts of the constructions which were covered with earth. By this device, it was also possible to avoid handing over drawings of the gun foundations of those batteries which had been constructed after the deadline; these drawings would otherwise have revealed the actual condition of those batteries.

Inspections on the spot

The commissions did not restrict themselves to inspecting the batteries only once; they visited most of the batteries several times and often at very short notice. With the batteries in question, therefore, it was a necessity and a permanent worry to fight the drift caused by the wind; this job had to be done by a small number of reliable workers. Otherwise, the drift would have laid bare the improvised gun foundations and thus destroyed the whole basis of the German claims. Though every opportunity of giving a more solid aspect to the foundation was made use of in the interval between two inspections, it could often not be avoided that the members of the commissions became suspicious, especially since the commissions employed many informers.

In the case of these batteries concerning which it was particularly precarious to maintain our bona fides, the only way out in certain instances was to allege that the dunes were endangered by the weight of the guns and their foundations, to dismantle the guns summarily and to pretend that the gun foundations had had to be blasted. As a result, on their next visit the commissions could

inspect nothing but those fragments of concrete which allegedly remained after the pretended demolition by blasting. Altogether, every possible subterfuge had to be used. For example, the inspections were scheduled in a way which resulted in the necessity of strenuous marches through the dunes, so that the inspections of precarious objects formed the end of the tour and could be much shortened because the participants were tired out.

Temporary "Armierungs" batteries

Lieutenant Commander Witzell found it particularly hard to substantiate the German claim with regard to the so-called, "Armierungs" batteries, in other words those batteries which—either in actual fact or allegedly—had been established for the duration of the war only and which had been dismantled at the end of the war and before the effective date of the peace treaty, in order to use the sites for agriculture. Here a few fragments of bricks or concrete in the ploughed soil were frequently the only evidence of the previous existence of batteries which could be shown to the commissions, and it is obvious that such procedure was not a favorable basis in the over-all struggle for the batteries.

Permanent batteries

In the case of permanent batteries, too, it frequently happened that the guns requisitioned in the lists were different from those which had actually been emplaced there. Similarly to the procedure followed with regard to the "Armierungs" batteries, it was, in these cases, again necessary to produce the guns in question for inspection in the depots, dismantled from the batteries. To justify this, it was claimed that even in the case of permanent batteries it had not been possible to guard the guns and that thefts had often occurred after the revolution; it had, therefore, been necessary to withdraw the guns.

Suspicious of the control commissions

All fortifications were inspected several times. In spite of all the subterfuges mentioned, it became clear that the control commissions became increasingly suspicious, because in the course of a thorough investigation it became all too obvious to the experts that not everything seemed to be on the level with regard to the batteries. Eventually, Nollet wanted to reject all those claims which did not seem absolutely justified, including even some batteries which were actually on the level.

Decision of the conference of the ambassadors

This attitude of Nollet was exploited and it was proved in a number of examples that Nollet was wrong. On this basis, the

German claim was tenaciously argued again and again, except for a few batteries which were untenable. The German appeal was turned down by the conference of the ambassadors, but it was taken up again and again. Eventually, the ambassadors' conference rescinded, with the signature of Poincaré, both the decision of Nollet and their own previous decision and granted the 119 guns in dispute, although the conference maintained its previous statement that the Germans had cheated. The enclosure shows that except for several light guns, the guns involved were mostly modern, efficient heavy and medium guns, which have since been used very advantageously for the buildup of our coastal defenses—including the Baltic coast—and for other important military purposes. [Marginal note: Appendix.]

Baltic guns handed over to the army

After the war, the fortresses Pillau and Swinemuende were taken over by the navy, including a number of mobile guns (21 cm. howitzers and 15 cm. field guns mounted on mobile gun carriers), which had been placed there by the army. As the Allied Powers demanded that fixed guns only be emplaced there, these guns were adapted for fixed emplacement by the navy. However, in spite of great difficulties, this adaptation was performed in such a way as to enable the guns to be used again on mobile gun carriages as well. Later on, they were returned to the army.

The total figures of guns saved from destruction which were returned to the army during the postwar period and before the seizure of power [by Hitler in 1933] are the following:

- 14 long howitzers, 21 cm.
- 24 15 cm. consisting of 20 K/16 and 4 naval guns on wheeled gun carriages.
- 48 7.7 field guns (originally authorized for the then existing naval units for coastal defense).
- 40 light guns, mostly antiaircraft guns, caliber 7.62 to 10.5 cm. out of a number of other guns rescued.
- 27 3.7 cm. automatic guns.
- 6 medium and 46 light mine throwers [Minenwerfer].

153 guns and 52 mine throwers, total.

This number of guns formed a propitious starting point for the amount of guns conceded to the army by the treaty. Furthermore, the rescue of coastal guns made it possible to hand over to the army, even after the seizure of power, another considerable number of guns, mostly of large calibers, for the reinforcement of the heavy artillery of the army.

Antiaircraft guns

In the negotiations, it had been possible to obtain the concession of a large number of antiaircraft guns for the old battleships. Only a minor part of these were placed on these ships. The surplus was utilized for antiaircraft batteries on land. The ostensible reason given was that they had been removed from the ships only under peace conditions and in order to create improved accommodation facilities for the crews, whereas all of them were still marked in the diagrams of the ships kept in the shipyards. Thus, it was possible at an early date to establish a slight measure a coastal antiaircraft protection.

2. Clandestine removal of artillery equipment and ammunition and of small and automatic fire arms

a. Artillery equipment and ammunition

Range finding instruments; Naval Ordnance Lt. (s.g.) Renken, retired

The VT provided for the destruction of all existing stocks of arms exceeding those conceded to the Navy. Naval Ordnance Lieutenant (s.g) Renken, retired, was appointed representative of the Arms Department (BW) of the navy for the destruction procedure. In the summer of 1920, he visited Jena together with the Allied Control Commission. There, the destruction of the range finding (E) instruments was scheduled to take place. He then made up his mind to save this valuable equipment from the action intended by the commission and to preserve it for future use.

In cooperation with the firm of Zeiss, one night he had 7 freight cars loaded with E-range finders, namely consisting of 12 x 8 m, 60 x 3 m. and 120 x 1.5 m.; furthermore, 8,000 tubular telescopes, battery commander's telescopes and periscopes for the use of both army and navy. Escorted by a man provided by the firm of Zeiss, and through the connections of Renken with a custom official, these freight cars were directed via Stralsund, Sassnitz, and Sweden to Holland, to be stored in the Zeiss plant in Venlo. Later on, part of the material was sold, another part was returned to Germany. This transaction was greatly assisted and furthered throughout by senior engineer Schneider, deceased, of the firm of Siemens, and by Captain Forstmann (ret.) of the firm of Zeiss. It was only through the cooperation of these two true Germans that the shipping of the equipment became practicable.

The proceeds of that part of the equipment which was sold was invested in American dollars after deduction of the forwarding expenses. With the cooperation of the firm of Zeiss, these funds were used to finance the new construction of E-range finders by

BW [Arms Department]. These range finders were utilized for the first time in 1925 on the cruiser Emden.

That part of the equipment which was not sold was used for refilling our own stocks in 1925 and 1926. Three freight cars were redirected to Germany for that purpose. It was not easy to clear them at the Berlin customs. They were only released for use in Germany when Lieutenant Commander Altvater issued a certificate confirming that they were the property of the navy. A considerable part of this material was used for the strengthening of the coastal fortifications. Another part was used in the ships.

There remained about 120 x 1.5 to 6 m. Owing to the intervention of Lieutenant Commander Galster, of BW, these were handed over in 1926 to the firm Paul Lehmann and Co. (co-owner Lt. Comdr. Ackermann (ret.)). Owing to the commercial ability of Lt. Commander Meine (ret.), an employee of the firm, the firm succeeded in realizing the value of these instruments. The proceeds amounted to approximately RM 150,000 and were paid to the navy in quarterly installments. Up to the summer of 1927 these monies went into the "black funds," administered by the heads of BW and used for the strengthening of our secret armaments. Later on, they were listed as part of the revenue of the Reich.

Ammunition containers

After the scuttling of the fleet at Scapa Flow, France demanded not only the surrender of another 5 cruisers, but at the same time that of all ammunition containers made of zinc, many thousands of which were stored in Wilhelmshaven and Mariensiel, the equivalent to be credited to the reparations account. They were, however, not surrendered, because Renken aptly managed to frustrate this. He saw to it that the containers were melted down into ingots which were sold with the cooperation of the firm of Ellerbroek, Wilhelmshaven. This material amounted to approximately 700 to 800 tons of zinc of considerable value. The proceeds were partly converted into foreign currency, partly invested in stock, and administered by the BW department heads as part of the "black funds."

Artillery munition

In 1922-23, clandestine removal of artillery munition was carried out on a very large scale. A minor part was sold, the major part was handed back to the German Navy. Apart from Renken, Naval Ordnance Captain Woiczinski, (ret.), Lt. (s.g.) Goullon (ret.) and the deceased Lt. (s.g.) Lange (ret.), belonging to the artillery depot Wilhelmshaven, have rendered particularly valuable services in this matter. The quantities involved were so consider-

able that they were practically sufficient for the firing practice of the 8.8 cm. and 10.5 cm. guns of the navy in 1926, so that it was not necessary to draw on the stock earmarked for practice.

The very fact that these large quantities of ammunition were involved makes it obvious that it was rather difficult—with the control commissions still functioning—to conceal them from their eyes. Loaded on long freight trains, the ammunition was waiting all the time on a Wilhelmshaven siding to be moved from depot to depot, from fort to fort, so that the inspecting commission members—and inspections were often scheduled at short notice—did not come across these trains.

Once, however, this did happen. One morning, the commission was on its way to a surprise inspection, and was held up by a freight train which was scheduled to move nearly 10 million rounds of rifle cartridges. The French Captain Viel angrily asked for the origin of this ammunition, pointing out that he had not seen it before. In this delicate position, Renken retained his presence of mind and pointed at a French steamer which happened to be moored in the harbor in order to collect the equipment for the 5 surrendered cruisers. He stated calmly: "This ammunition is going to your steamer." A furious look from the French Captain, a smile from the British commission member, and the inspection was continued. The munition was saved. It is likely that it is still being used for practice at this very moment.

A remark made by Commander Fenshow of the naval commission B, (chief of staff of Charlton), with whom Renken had ostensibly maintained cordial relations, shows how cleverly Renken acted throughout during the period in question. When the Control Commission cleared out in 1924, Fenshow addressed Renken in approximately the following terms:

"It is now time for us to separate. Both you and I are glad that we are leaving. Your task was unpleasant and so was mine. One thing I have to point out. You should not feel that we believed what you told us. Not one word you uttered was true, but you delivered your information in such a clever way that we were in a position to believe you. I want to thank you for this."

b. Small arms and automatic weapons

Arms depot at Kiel Naval Arsenal

After the war small arms were spirited away in all naval stations in order to save them from the destruction demanded by the allied enemies; the scope and the success of this measure varied. It was particularly important in Kiel, where considerable value

was involved. Their conversion was equivalent to a considerable increase of the arms conceded to us.

Naval Ordnance Captain Jung, retired

Here, Captain Jung (ret.) had built up a large depot of arms and equipment in the Kiel Naval Arsenal. It consisted of several thousand rifles and hundreds of machine guns. It also included various pieces of optical and mine equipment.

The funds necessary for the maintenance of these arms were procured in the same way as described in section 2a. Here again, surplus artillery material was clandestinely shipped to foreign countries. To ship it, U-boat mechanic Selmer provided a boat which took the equipment to Denmark to be handed over to the forwarding firm Bendix in Copenhagen. There, it was taken over by the firm, Daugs and Co. and sold to Finland, Estonia, Sweden, and even China. It was agreed that 60 percent of the proceeds went to the Navy, 40 percent to the firms to cover their expenses and as profit.

Removal to Kiel-Wik—Betrayal of the arms depot

In the summer of 1922, lack of space made it necessary to move the arms depot from the arsenal to the naval installations Kiel-Wik. After the removal of the arms, a misguided arsenal worker betrayed the secret for a "Judas reward" to the British member of the Naval Inter-Allied Control Commission.

Criminal proceedings against Jung

It was possible to determine the worker, who was convicted of treason and condemned to the amply deserved punishment of penal servitude; however, criminal proceedings were also instituted against the senior official, Captain Jung, and his secretary for violation of the law concerning the disarmament of the population. It is true that these proceedings resulted in their acquittal on 10 July 1923.

Extension of the depot

In spite of the fact that after this betrayal the officers of the Naval Inter-Allied Control Commission tightened their control, and in spite of the resistance of the government then in power, a large part of the ordnance depot which had been betrayed could be saved; it was even possible to supplement the stock with large quantities of other arms coming from all parts of the Reich.

Ensign Protze

Next to Jung, Ensign Protze greatly cooperated in the administration and enlargement of this ordnance depot.

Lt. Comdr. Kolbe

It is mainly due to the commanding officer of coastal defense unit III, Lt. Comdr. Kolbe, that storing space was made available in the naval installations Kiel-Wik, particularly in the detention house and in the economy building; thus it became possible at long last to assemble and to store arms and equipment inconspicuously and, what was even more important, in a uniform and concerted way.

Under the supervision of Baurat Kelm, these promises were refitted inconspicuously by picked and reliable personnel of the naval arsenal, and the same staff then stored the arms in proper order and maintained them.

Difficult repair work

It was particularly difficult to have all those arms of different origin properly reconditioned and tested. Often the requirements were not fulfilled, so that the testing had to be repeated several times. In this respect, Naval Ordnance Captain Jung was very efficiently assisted by one of his officials, Senior Technical Secretary Schweingruber.

Mines

With regard to the above-mentioned material for mine warfare, it may be added that most of the surplus equipment was stored in lighters which were given special code names. In case of Naval Inter-Allied Control Commission controls, dockyard owner Kolbe (firm Stocks & Kolbe) rendered valuable assistance; he supplied a steamer free of charge and was on the bridge himself. When inspections were imminent, the steamer towed the lighters to Sonderburg where Kolbe had a dockyard. There, the steamer and the lighters in tow remained there until the danger in Kiel was past.

Naval Ordnance Ensign Horn (ret.)

In 1927, Ensign Horn (ret.), arms expert in the Naval Station Command Kiel, was put in charge of the ordnance depot. In the meantime, the depot had been given the name "Naval Owned Economy Depot of the Naval Arsenal of Arms and Equipment," in brief "Economic Depot Kiel."

Economic Depot Kiel

Horn endeavored to extend the economy depot further and to recondition and maintain the arms, as far as necessary, so that they were fit for war purposes. All command echelons were ordered to deliver all surplus arms—in other words, "black" arms—to Coastal Defense Battalion III, now retermed 1st Naval Artillery

Battalion, which served as a cover destination; from there they were directed to the economic depot. The stock of the depot was also greatly enlarged by the delivery of the stocks of arms existing on certain isolated farms.

Measures in case of inspection

When a new inspection by the Allied Powers was to be expected in 1928, the following measures were taken with regard to the economic depot:

It was to be foreseen that the economic depot would be betrayed. The command of the navy, therefore, decided on a code word to be used in case an inspection was scheduled. When this code word was received, the arms were immediately evacuated by soldiers, except for 2,400 rifles. They were loaded on a raft kept in readiness by the naval arsenal Kiel, and the raft was towed out into the sea.

The 2,400 rifles were left in the economic store deliberately in order not to show an empty store to the control commission; the depot could thus be explained as a repair shop for the arms of the naval units on land. In this connection, Horn had given a receipt to the units in question in 1928. In case of an inspection, it was the task of these units themselves to camouflage that part of the arms authorized for their use which had allegedly been handed over in other words to spirit them away out of their area. This procedure could, unfortunately, not apply to automatic weapons, because the Allied Powers had a list containing the identification numbers of all machine guns conceded to the Navy.

Armament of air planes

Further use, however, was made on the economic depot for the storing of armament for airplanes. From 1928 onward, there arrived from the naval command various parts of equipment for airplanes (circular tracks, machine guns, bomb release controls, sighting mechanism, periscopes, azimuth instruments, etc.). For the time being they were left in the packing cases. From 1930 the economic building B in Kiel-Wik was refitted as a store house for airplane equipment and the complete equipment for about 60 airplanes was assembled. The storing had to be effected in a particularly secret way so that no leakage could occur.

Arms for Pillau

In 1930 a minor part of the stock from the economic depot was sent by sea to Pillau. These arms were earmarked as additional equipment of the navy in East Prussia in case of mobilization. At that time these arms, too, had to be camouflaged in Pillau. They were administered by the naval artillery depot.

Dissolution of the economic store

In 1933, the economic depot and the branch depot Pillau were dissolved by order of the Naval Command. For accounting purposes, the airplane equipment was transferred to the airbase Holtenau, all remaining arms and equipment to the Naval Arsenal Kiel.

At the moment of the dissolution of the economic depot, the following stocks of arms were available:

- 4,570 rifles [model] 98
- 1,374 carbines 98 a
- 6,806 bayonets 98/05 and 84/98
 - 142 airplane machine guns (mobile and fixed)
 - 125 machine guns 08 (army and navy pattern)
 - 12 machine guns 08/15
 - 47 submachine guns
- 605 Mauser pistols
 - 57 pistols 08, short and long
- 334 pistols, single barrel
- 145 pistols, double barrel
- 60 sets of airplane equipment

These arms had been completely reconditioned and were available complete with accessories when military training was extended in 1933. Thus, the first new requirements for additional arms could be met with without difficulties and without expenditure.

* * * * *

II. Independent armament measures behind the back of the Reich Government and the legislative bodies

(From 1923 until the Lohmann Case in 1927)

The Poincaré government, in carrying out a "policy of productive collaterals", undertook on 11 January 1923, the occupation of the Ruhr district, for the reason that Germany intentionally omitted to pay its reparations.

This breach of justice did not only stir the population concerned and incite them to heroic, passive and later in individual actions, rather active resistance, it also shook the whole of Germany. It was a flaming warning not to sink, by further inactivity, from the present state of defenselessness into a state of infamy.

If the password of the navy had been until then, rescue from destruction, now brains and hands were united in the fight against the peace treaty and attempted to create the base for the strength-

ening of our combat means by evading or nonobeying of its regulations.

In this connection, only small measures could always be taken, as matters stood; apart from their psychological importance, their value consisted mainly in the utilization of war experiences, training of personnel and in industrial preparations for the case of war.

1. Attempt to increase the strength in personnel of the Reich Navy

In autumn 1923, the command of the naval base of the North Sea planned to increase the defensive strength of the navy by training soldiers in excess of the regulations of the Treaty of Versailles. This measure was to be carried out in such a manner that they were to receive emergency training for approximately 3 months, then the volunteers were going to be dismissed and replaced by new arrivals.

The originator of the idea was the chief of the naval base of the North Sea, Commodore Bauer, it was carried out by recruiting measures of the base command. The Chief of Staff, Lieutenant Commander Luetzow, and other officers and high personalities travelled for this purpose through East Frisia, Oldenburg, through the district Stade and through Bremen, made speeches, collected funds, and recruited volunteers. The activities were successful and the maintenance of secrecy was accomplished in a greater measure than could be expected at that period. Besides Lieutenant Commander Luetzow, valuable work was also done by Captain of the General Staff, von Sodenstern, and Naval Chaplain Ludwig Mueller.

Only when the situation in Germany became more stable and the valid precautionary measures were handled with more imprudence, did the Social-Democratic Party learn about it and demand, through its representative Huenlich, the appointment of a Reich commissioner. In spite of the fact that the volunteers were paid regularly and clothed by private means, the Reich commissioner succeeded in proving that such a measure, as stated by the Social-Democratic Party, was not carried out at all. In order to hide the real facts, a great number of muster rolls, personnel files, references, enlistment certificates, etc., had to be procured. In this connection, Lieutenant Commander Wilhelm Ruemann, Lieutenant j.g. Girke, and Ensign Groenemeyer in particular did valuable work, the latter two produced the new documents, working night and day. The enlistment papers and other signed papers of the volunteers of that period were signed deliberately by them with false popular names, this was intended to prove that they would

betray nothing, as they even rendered themselves liable to punishment because of forgery.

However, there was nothing else to be done but to take into the navy the last enlisted group as professional *soldiers*. Thus, a number of volunteers who did not intend to become professional soldiers, were forced to serve for 12 years and the action of these soldiers deserves to be acknowledged.

In the years 1924 and 1925, a total of approximately 600 volunteers received a short military training, which was given in groups up to approximately 30 men.

* * * * *

3. Activities of Captain Lohmann

In autumn 1927, the public was for the first time informed about a naval officer who, as chief of an essential department of the Navy Command, had been involved in various activities beyond the scope of his official duties and who had been ruined in this procedure.

According to the habits of the time, the Lohmann Case was extensively discussed in the press and the Reichstag, and both were anxious to condemn the much publicized officer.

Now is the time to examine Captain Lohmann's activities merely from a military viewpoint, to consider his aims, motives, and success only from this angle, and to throw light on facts which might unjustly otherwise remain in the darkness of oblivion.

Justice demands that the same detailed information about the case is given now, as in the past.

Special navy funds

The navy had at its disposal certain funds originating from the winding-up of the war and its consequences; these funds, which were subsequently increased by special means from the Ruhr funds, were administered by Captain Lohmann, Referent [Dezernent] at the Reich Naval Office at the end of the war, from October 1920, chief of the then Maritime Transport Department of the Naval Command (called BS) Admiral Behnke, then Chief of the Admiralty, was quite confident that Lohmann was the man to be entrusted with the most efficient administration of the special funds.

Captain Lohmann

Concerning the character of Captain Lohmann the following can be said:

As son of the former president of North German Lloyd, he inherited some of the broad views which distinguishes the Hanseatic spirit, and all his activities were marked by this broad view.

Because of his special qualifications and connections, he was active after the war in the demobilization of approximately 2,700 auxiliary vessels and helped to avoid financial losses to the Reich as much as possible. Owing, to a great part, to his direct and indirect activities the Reich saved many millions RM, without long and expensive legal procedures.

His official duties included also participation in the armistice negotiations; it was his ability in the course of the negotiations on the English battleship, "Hercules," on 8 December 1918, which succeeded in rendering the consequences of the armistice conditions as bearable as possible for German shipping. Here he met for the first time the impact of the brutality and infamy of our adversaries, and still under the impression of this day, he promised the former commander of the "Emden", Captain von Mueller, to fight and to mitigate the conditions of the Entente with all possible means, and to collaborate in the revival and liberation of our Fatherland.

In 1919, in agreement with the Armistice Commission, Lohmann founded the so-called Panac-traffic which made it possible for the German shipping trade, in spite of the still existing sea embargo, to start overseas lines again, which were of vital necessity for Germany's recovery. No less than 1,000 authorizations for the passing through the blockade went through his hands. Thus, the Reich received the first absolutely necessary imports, the shipping trade its first profits at the very favorable freight rates of that time, and the crews and longshoremen, work.

Lohmann also organized the exchange of prisoners of war via water with 48 ships and 150 trips. After the conclusion of these transports, he succeeded in buying back from England, with written consent from the King, the former German ships used in those transports, an enterprise which seemed at first impossible to the members of the shipping trade, a fantasy which could not be realized. When the first ships actually arrived in Germany, the act was highly appraised.

L. [Lohmann] took an active part in the return of the captured and seized vessels; he obtained with great difficulties the return of ships from Russia for the shipping trade and made a treaty with the Russians which the latter subsequently considered extremely favorable to Germany and accordingly unfavorable to the Russians.

Captain Lohmann founded or cofinanced the following enterprises which he considered adequate to strengthen directly or indirectly the military power of the German Reich and in particular the combat power of the navy.

a. First Group

According to the report by Reich Defense Minister Groener, submitted to the Reichstag on 10 March 1928, concerning the character, the extent, and the winding up of the so-called Lohmann enterprises, we shall firstly examine these measures which Lohmann took, based on the general power of attorney, for the utilization and expenditure of these special funds which he received from the then Chief of the Naval Command with the assignment of the Ruhr funds.

Navis G.m.b.H.

In order to have a go-between for the enterprises which he financed, L. [Lohmann] who, for obvious reasons, could not appear openly as a financier, founded firstly the Navis G.m.b.H., which was subsequently located in the building Luetzow Ufer 3 (see also under c, Real estate politics), which L. had acquired. This company served subsequently as cover and administrative office for the majority of his enterprises.

PT boats

L. was soon aware of the value of efficient, small, torpedo carrying PT boats for a navy restricted in battle strength and in number. As, however, the construction of such crafts represented an infraction of the Treaty of Versailles.

Trayag

L. modernized through special funds old motorboats used in the war, and founded in 1924, the Trayag (Travemuende Yacht Harbor A.G.) on the Priwall and on the coast, with the aim of building large motorboats and simultaneously to obtain a berth during the Travemuende week; by this he intended to create interest and to obtain construction orders for the company. L. had the motor yacht, "Hansa," constructed there, as a model of a fast mine sweeper which could also be used as submarine chaser and patrol vessel. He hoped that after a demonstration of the boat, persons interested in motor yachts would be induced to construct similar boats.

Experiments with these PT boats justified the expectations concerning this type of craft and greatly facilitated further developments.

The Trayag was sold at the winding up of the Lohmann enterprises. Recently the R.L.M. [Reich Air Ministry] has been considering the acquisition of the installations.

Spanish interest

A consequence of the development of the PT boats was the fact that during a visit to Spain, L. succeeded in interesting the King in this problem; he was asked to submit a memorandum concerning the practical use of PT boats in Spain. This memorandum was written by Lieutenant Commander Canaris upon instructions and directives from L., with the result that the Spanish Navy wanted to order a considerable number of PT boats in Germany. The aim of this order was to strengthen our relations with this friendly nation, to increase its combat strength and to procure new orders for our shipbuilding and motor industry, which at the same time represented an improvement of our trade balance; we also hoped to gather experiences for our own new constructions during the building and the tests. Unfortunately the revolution in Spain did not permit the execution of these plans.

The founding of a torpedo factory in Cadiz, which was financed by Reich funds on instructions from Captain Lohmann and Lieutenant Commander Canaris, and carried out by the Spanish industrialist Echevarrieta, and in which the construction of 1,000 Spanish torpedoes was provided for by contract, was one of these enterprises. As German engineers were in charge of the production, the German Navy had continuous information about the further development of torpedoes.

At the same time, the credit of the construction of the factory was intended to further the German export industry, on the one hand by the delivery of equipment to the factory through German firms, on the other hand by the fact that the contacts gained through this, much improved by the Spanish Chief of the Naval Command Salas, made it possible to equip Spanish vessels with German firing controls.

In 1933, the unfinished factory was taken over by the Spanish Government. The credit, which was partly repaid in foreign currency and amounted to 17,700 Pounds sterling, went to the navy and was very useful in the financing of its cruiser voyages abroad. The German Embassy received an additional sum of 1,000,000 Pesetas for official use, which relieved the difficulties of the German financial situation.

We owe the success of the very difficult financial liquidation of this enterprise to the efforts of the representatives of the Reich accounting office, Drs. Mueller and Ahrens, and in particular to Dr. Eckhardt who was entrusted by the navy with the winding up of the Lohmann enterprises.

Sea Sport Organization Hansa

In order to train a crew for the PT boats, in case of war, the

Sea Sport Organization Hansa, Rear Admiral von Trotha (ret.) being president, was formed in 1925, with the assistance of L. [Lohmann], with its seat in Berlin. A training center, the Hanseatic Yacht School, was organized in Neustadt on the Luebeck Bay in a reconstructed hotel. The purpose of this was to train young people on small, and motor boats and to induce in them a liking for the sea, at the same time the pupils received first instruction in radio communication.

During the winding up of the Lohmann enterprises, the organizations were transferred to the finance administration. Subsequently the school continued for a number of years with Reich contributions from special naval funds, and hundreds of young men received their naval training there. Now the school belongs again to the navy and is reconstructed as a submarine school.

Mortgage to the Motor Club of Germany

In 1926, L. [Lohmann] gave a mortgage of 60,000 RM to the Motor Yacht Club of Germany (President, Vice Admiral Hopmann (ret.)) for the further development of the motor boat industry; the club was urged to recommend to its members the motor boats built by Trayag. L. hoped furthermore that by this, mine sweeping personnel could be obtained in case of war.

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Strip of land on the Luebeck Bay

Connected with this enterprise is Lohmann's acquisition of a strip of land southeast of the Luebeck Bay for the treasury, with the intention to use it for the enlargement of the airport at Trave-muende. The location seemed to L. also favorable for an airplane factory; he negotiated with the Dornier Works with reference to this.

The strip of land still belongs today to the Reich Treasury and is used by the Reich Air Ministry for the construction of air equipment office.

Interest in Dornier and Maybach

In this connection, L.'s nonmaterial interest in the Dornier Works in Friedrichshafen ought to be mentioned, which he demonstrated at the turn of the year 1926-27. He, as a *spiritus rector*, obtained the construction of a branch of these works on Swiss territory and thus made it possible for them to accept larger orders, mainly from abroad, and by this to gather experience which subsequently proved to be extremely valuable for the works. Only through this, was the construction of large planes (for instance Wales and Superwales), which was then prohibited to us,

made possible. L. obtained the financial support of the Reich (R.V.M.) for these works, and he was responsible for the further development of their construction.

L. also negotiated a Reich credit for the Maybach Works.

In this manner, L. at least assisted those two works in overcoming this first and hardest period of the start.

Construction of tankers

His efforts to increase the German tanker tonnage deserve special attention.

Lohmann was aware of the importance and necessity of a guaranteed oil supply for Germany in case of war, and he well remembered the remark of a French military commander: "Every drop of oil is worth a drop of human blood!" He therefore aimed at a considerable increase of the small German share—only 1 percent—in the world's tanker tonnage in 1927. As he realized that from considerations of budget policy the acquisition of tankers could not be charged to the navy budget, and that their utilization for navy purposes only was economically impossible, L. attempted to interest the naval treasury as a silent partner in a particularly appropriate tanker company, through a Reich guarantee. He had in mind something similar to the Anglo-Persian Oil Co., which was then considered the oil economic department of the British Admiralty, with its 300 craft, many of them tankers, with a transport capacity of more than 1 million tons.

L. expected a direct military advantage from the use of these tankers as aircraft carriers and tenders for mine sweepers.

Thus, in 1925, the "Berlin," and the "Bremen Oil Transport G.m.b.H., was formed, as well as the "Befrachtungskontor G.m.b.H." [Freight Co.] which were all administered by the new Staatsrat and chief of shipping, Lt. Comdr. Essberger (ret.), through his own "Atlantic Tank Shipping Line."

Funds for the acquisition of 3 old tankers and for the construction of 6 new tankers were procured by a Reich guarantee, which L. obtained for the bank financiers. These offices were willing to grant the credit because in this manner a total of 15 million RM in orders went to the dockyards which were very anxious to work—the Weser dockyards in Bremen and the Danzig Schichau dockyards which are owned by Germans. The Bremen Senate (Senator Boehmers) supported the transaction in the credit negotiations.

The bank credits were partly repaid after the winding up of the Lohmann enterprises; the interest of the Treasury in the tanker company mentioned were redeemed in 1935 by a single payment of Staatsrat Essberger.

Furthermore, Lohmann negotiated at that time also the financing of another tanker, "Hansa," constructed in Schichau Danzig,

which was taken over by the Reich Navy at the winding up period and is today still being used by the navy.

The tankers are still in use today and—apart from their already mentioned military use—represent a valuable part of our tanker space in case of war which is the military success of the entire action. The tankers do not only provide work and bread for hundreds of fellow Germans, but also provide foreign currency on trips for foreign accounts and, therefore, strengthen our trade balance as an invisible export.

b. Second Group

The second group of the Lohmann enterprises is the Phoebus Films enterprise, where Captain Lohmann acted partly in agreement with his superiors, partly without their knowledge and consent. This is doubtless his most publicized enterprise which also resulted in the disclosure of his various activities, a fact which caused the navy great embarrassment.

Phoebus Film Company

At the turn of the year 1923–24, Lohmann started his connection with the Phoebus Film Co., which received from him considerable sums, partly directly, partly through negotiation of bank credits in which L. himself acted as donor of guarantees or obtained their being transferred to the Reich.

L. considered the film company, which was reliable from a national point of view, as a very appropriate means for the revival of Germanism and for the spreading of the patriotic idea. Furthermore, he recognized the importance of secret film propaganda in the service of the Reich and owned only by Germans. In this connection he remembered from the war the remark of a military commander of the Entente to the effect that the film had taken the place of several army corps.

Furthermore, Lohmann intended to use the offices of the Phoebus Film Co., in foreign countries to develop the military intelligence system exactly in those places abroad where the presence of agents would be too conspicuous, but where it was particularly essential to have such intelligence service.

On the other hand, the management hoped to increase its production by the means provided by L. and to extend their business to Russia, to which country L. had just made a study visit.

Directives of the collaboration

Lohmann had agreed with the manager on directives, according to which without showing openly a definite trend, the pictures ought to help the German people, in particular the resisting circles,

to return gradually to a more natural healthy conception; the circles which were given to internationalism and dirt were to be taught again to reconsider and to feel for the nation. Besides, the people ought to be informed about the necessity of national defense on land and sea.

Furthermore, the films ought to be such as to create by their sale abroad an understanding for true German nature, to eliminate the prejudice against Germany, still persisting since the war, and to help find again recognition for German ways. All Phoebus theaters were to refuse to show anti-German pictures, and the management ought to influence the other film organizations to the effect that they also favored these demands. Besides, it was also agreed upon that special films be kept in readiness for emergencies (unrest, danger of war) in order to influence the masses upon instruction by the government.

c. Third Group

The third group of the Lohmann enterprises consists of those business and economic enterprises in which L. acted completely on his own responsibility. These are measures of a minor financial importance, the military value of which was not yet obvious, but which L. considered as advantageous for the navy, or at least for the Reich. The honorary court investigation has established the fact, which we repeat here, that L. never aspired to personal gain; on his death in 1930 he left so little that his widow could not even cover the costs of inheritance taxes.

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4. Preparations for the Restoration of the German Submarine Arm

After the carrying out of the armistice conditions and the signing of the Versailles Treaty, any practical continuation of the work in the field of the submarine arm was impossible in Germany. In spite of that it was possible to put the first submarine into service already, 3½ months after the restoration of military sovereignty declared on 16 March 1935, that is on 29 June [1935], and then at intervals of about 8 days to put new submarines continuously into service, so that on 1 October 1935, 12 submarines with fully trained personnel were in service.

On 7 March 1936, during the critical moment of the occupation of the demilitarized zone on the western border, 18 submarines in service were available, 17 of which had already passed the test period and in case of emergency they could have been employed without difficulties on the French coast up to the Gironde.

The explanation for this astonishing fact is given by the following summary:

Submarine projects for Japan

The Germania shipbuilding yard and the Vulkan shipbuilding yard, after receiving approval from the Admiralty, sold already in 1920 the project blueprints of the German submarine cruisers (U-142) and the mine submarine cruisers (U-117) to Japan, which took these projects as a basis for the construction of its own submarine cruisers of the same size. The preparation of the construction blueprints and the construction of the first submarines on the Kawasaki shipbuilding yard itself, was carried out under the supervision of German submarine constructors of the above-mentioned German shipbuilding yards, partly under the personal direction of the former submarine chief constructor of the Germania shipbuilding yard, Dr. Techel. From 1925 to 1928, with the approval of the Admiralty, Lt. (s.g.) Robert Braeutigam (ret.) participated in the trial runs of these submarines, which were the first built abroad after the war, based on German models. In this manner he was able to keep up to date his valuable experiences which he had acquired as a member of the former submarine reception commission.

Founding of the I.v.S.

In 1922, the Germania, Weser, and Vulkan Hamburg-Stettin shipbuilding yards, at the instigation of Lieutenant Commander Bartenbach (ret.) and Lt. Comdr. Blum, who died a short time ago, and with the approval of the Chief of the Admiralty, Admiral Behnke, founded a German submarine construction office as a Dutch firm the "Ingenieurskantoor voor Scheepsbouw" (I.v.S.), in The Hague. Lt. Comdr. Blum was appointed commercial director and Dr. Techel (see above) technical director; the number of engineers and constructors of the I.v.S. amounted to about 30.

The purpose of this foundation for the admiralty was to keep together an efficient German submarine construction office and by practical work for foreign navies to keep it in continuous practice and on top of technical development.

Two submarines for Turkey

In 1925, Lieutenant Commander Blum succeeded in obtaining as the first practical task for the I.v.S. the order from the Turkish Navy for the construction of two 500-ton submarines according to the projects of the I.v.S. for the Dutch shipbuilding yard Fijenoord in Rotterdam.

That this could be done in view of the considerably lower prices of the foreign competition, especially the French and Italian, was

made possible only by the fact that the chief of the Maritime Traffic Office of the Admiralty, Captain Lohmann gave a contribution of nearly one million marks to the I.v.S.

Entry of the Admiralty in the merger of the I.v.S.

Furthermore, the Maritime Traffic Office stated that it was ready to grant the I.v.S. in needy years an additional contribution up to the amount of 120,000 marks per year, and in return it asked for 28 percent of the stock and the chairmanship in the merger of the I.v.S. This contribution was only required once, namely at the end of 1927; the payment at that time was made from the winding up of the Lohmann affairs, after the Reich Minister of Finance and the President of the Supreme Reich Auditing Court had given their consent.

Lieutenant Commander Canaris informed Captain Lohmann about the I.v.S. and the special importance of keeping in operation an efficient submarine construction office for the future reconstruction of a German submarine arm. Lohmann decided to grant the financial support mentioned entirely on his own responsibility, and it is his special merit to have started the operation of the submarine construction office by this action. Without this prerequisite it would have been impossible to revive the submarine arm in such a short time and without tests in 1935.

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Lieutenant Commander Bartenbach (ret.), in Finland

Bartenbach, who since 1921, as adviser of the Argentine Navy, together with naval advisers (ret.) Schuerer and Krankenhagen, tried in vain to interest Argentina in the construction of submarines according to German projects accepted in 1924, a position as naval adviser in Finland.

I.v.S. warship construction in Finland

First of all he succeeded there in having three 500-ton and one 100-ton submarines built in Finnish shipbuilding yards according to I.v.S. projects for the German Navy. The test runs of these boats, which were partly under the expert naval direction of Lt. (j.g.) Schottky (ret.), and all of which were under the technical direction of the Naval Staff Engineer Papenberg (ret.), were utilized for the first time for the practical training of a small number of German naval and engineering officers in submarine affairs.

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750-ton boat in Spain

In addition to Lieutenant Commander Canaris, Naval Adviser Schotte also showed special interest for the first submarine con-

struction of the German Navy after the war in 1927, and also participated in the working out of the preliminary projects. In autumn 1927, Admiral Zenker commissioned the navy construction department with the carrying out of the construction in Spain. From now on the technical departments of the Mentor Bilanz G.m.b.H., for submarine construction abroad, was charged not only with the technical, but also with the administrative handling, which involved considerable amounts of money. These tasks were transferred to the firm Igewit (see above) in autumn 1928. Schöttky was the only military expert, Schuerer, the only technical expert of the Admiralty; they, so to speak, formed the bud of a new submarine inspectorate. In 1933, Marinebaurat Broeking (ret.), was added for submarine machine construction.

The working out of the project and the preparation of the construction blueprints was handled by I.v.S. which, in order to be able to do that, had to increase its personnel considerably to about 50 engineers and constructors. The shipbuilding material was prepared in the Dutch shipbuilding yard Fijenoord in Rotterdam. The supervision of the construction and the actual direction of the construction in the shipbuilding yard in Cadiz was handled by Marinebaurat Schotte (ship construction) who was released from active service for this purpose and by Marinebaurat Hey (ret.) (machine construction). The supervision of construction which actually meant handling the entire management of construction under very difficult circumstances (primitive workshops etc.) was done by a number of German engineers from I.v.S. and several German experts from the navy shipbuilding yard Wilhelmshaven. The diplomatic skill with which Marinebaurat Schotte succeeded in overcoming considerable difficulties in the Andalusian shipbuilding yard, is worth special mention.

*Echevarrieta**

To all intents and purposes, Echevarrieta was the entrepreneur of the submarine construction. In reality he only put at our disposal the limited facilities of material and personnel of his shipbuilding yard in Cadiz (value about 1/5 of the boat). Echevarrieta, who, as it was proved later, was near bankruptcy, was able to do that only after he had received a German credit. On the other hand the German admiralty, camouflaged behind the I.v.S., bore 4/5 of the expenditure.

After completion, the submarine made her test run and submerging test in 1941 from Cadiz and Cartagena, without having an actual base; the tests were carried out under the supervision

* A Spanish industrialist, who in 1925, on the suggestion of Captain (Navy) Lohmann and Lt. Comdr. Canaris, received from the Spanish King and from Primo de Rivera a contract to establish a torpedo factory in Cadiz which was to operate under German management.

of Lt. (s.g.) Braeutigam (rte.), Naval Staff Engineer Papenberg (ret.) (later relieved by Lieutenant Commander (Ing.) Huelsmann (ret.)) and the naval advisers, Schotte and Hey. The personnel was composed mainly of German officers, engineers, ship weight students, and masters who were for the first time on a submarine. Therefore, it is especially remarkable that the important technical conditions were satisfactorily fulfilled and confirmed by an official Spanish Navy commission.

Sale of the 750-ton boat

The submarine after completing the trials was supposed to be purchased by the Spanish Navy. However, this promise, made by the Royal Government of Spain, could not be carried out because of the revolution. Only after overcoming great difficulties arising from the involved conditions in Spain was it possible to transfer the boat from Spain to Turkey at the end of 1931 and to sell her to the Turkish Navy at a suitable price, and this only with considerable help from—as mentioned above—Lt. (j.g.) Messerschmidt (ret.), who since 1927 had been employed as confidential agent of the admiralty in Madrid. The selling price naturally did not cover our expenses, because the construction under the very difficult conditions required comparatively far higher expenses than would have been the case if we had been able to carry out a speedy and undisturbed construction in an efficient shipbuilding yard without having to use a construction office located elsewhere. The difference between the amount of our expenses and the selling price represents the sum we have to pay for the purchase of the construction blueprints for a modern very efficient submarine type, which has already passed the initial stage of the test period.

The boat which is now the Turkish submarine, "Gur," became the model for U-25 and U-26.

Firing of torpedoes leaving no wash

The firing of torpedoes which leave no wash by the methods used on our submarines today has developed from the war experience gained by the torpedo experimental station (TVA), and was tested and fired in practice for the first time on the boat built in Spain under the personal supervision of the chief of the TVA, Captain Hirth. It is noteworthy that this construction—constructor was Torpedo Staff Engineer Kunze (ret.) from the TVA—worked satisfactorily from the very beginning. However, the practical test on board was absolutely necessary in order to make the type of boat and the new type of torpedo tube construction ready for active service.

250-ton boat in Finland

In 1930 Bartenbach succeeded also in Finland in fulfilling the prerequisites for the construction of a submarine corresponding in type to the military requirements of the German Navy. The Chief of the Admiralty, Vice Admiral Raeder, after receiving the reports from the Chief of the General Naval Office, Commodore Heusinger von Waldegg, and Captain Bartenbach, decided to supply the funds required for the construction of the boat in Finland.

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Preparation for quick assembly

The construction and detailed testing of the boat type was the necessary prerequisite for the fact that in 1933-35 the parts for U-1 to U-24 could be procured by I.v.S. and Igewit long before the order for the assembly was issued, and the assembly itself could be prepared in detail, as this was actually done while fully preserving secrecy. For this purpose the firm Igewit rented a big storehouse from the Deutsche Werke Kiel, where the ordered machines, apparatus, and assembly parts for 12 submarines were stored. Furthermore, it ordered the erection of a construction shop at the Deutsche Werke in which, out of sight of the outside world, 6 submarines could be assembled at the same time. The individual parts of the 2 flag submarines U-25 and -26, too, were prepared in secret for assembly before the order for assembly was given. Therefore, the assembly of these big boats required a period of only 10 months. At any rate, this is a proof of how necessary especially this small 250-ton submarine type was for the quick revival of the German submarine arm. For a possible quick procurement of additional numerous submarine formations this type retains its importance until a new development comes out.

Electrical (E)—torpedo

Prerequisite for the success of the submarine arm in wartime is not only the firing of torpedo showing no wash (mentioned above), but also a torpedo which leaves no trace of bubbles. The electrical torpedo which at the present state of torpedo development in Germany is the only torpedo for completely invisible firing of torpedoes, was ready at the right time for the new German submarines, only thanks to the work of German departments abroad and the organizations established abroad. Already at the end of 1923, the German Navy established contact with several foreign navies with the aim of continuing the development of an electrical torpedo which would leave no trace, as the development had to be stopped in 1918. After several attempts in this respect

were unsuccessful, it was possible in 1927, to conclude a contract between the Swedish Navy and German firms for cooperation in this development with the silent participation of the Reich Navy.

The first test firing was conducted in 1929, in Karlskrona and showed favorable results. The German factory for accumulators which participated succeeded in developing (from the experience gained by this collaboration) a first-rate accumulator battery. Thereby, the most important prerequisite for a torpedo suitable for military purposes was established.

Only this preparatory work furnished the possibility for work on the development of German electrical torpedo, which was started immediately after the seizure of power, to result so quickly in producing a torpedo ready to be used in case of war. The performance of this torpedo was considerably superior to that of the Swedish one, and the supply of the submarines with this new kind of weapon was able to keep up with the quick pace set for the building of the submarines themselves.

An additional important connection which can be traced back to the year 1925, was taken up with Spain. At the instigation of Captain Lohmann and Lt. Comdr. Canaris, the Spanish King and Primo de Rivera gave in 1925, the order to the already mentioned Echevarrieta to set up a torpedo factory under German supervision (see also under II3a).

Torpedo Staff Engineer Meycke (ret.)

Torpedo Staff Engineer Meycke, retired, was to become the technical director of this factory which, on account of Spain's internal difficulties and the revolution, was not completed. During the years the latter was employed at the firm Echevarrieta he, in cooperation with the Akkumulatorenfabrik A.G. [Accumulator Factory, Inc.] and the Siemens-Schuckert-Werke, remodeled carefully for caliber 53 the E-torpedo which was finished in 1918 for caliber 50 and which was in some respect ready to be used in case of war, however, did not yet give satisfactory performance. In 1932, the firm Pintsch in Fuerstenwalde produced 3 pieces of this E-torpedo construction of Meycke and they were practically tested on the 250-ton boat in Finland.

In connection with this development in the field of torpedoes the special equipment which had to be installed on the submarines was also tested; the electrical torpedoes required an accumulator charging, airing, and heating installation for the torpedo laying in the tube. The experience gained in this connection, could also be utilized for the German development in connection with the construction of submarines.

Navy Staff Engineer Papenberg (ret.)

Of special importance for the preparation and the construction of U-1 to U-12 was also the activity of Navy Staff Engineer Papenberg, retired. He alone, with only one German master, in an excellent manner conducted the construction supervision of the 250-ton boat in Abo and after that had also the technical direction during the test runs. He had a considerable part in the successful completing of the construction and the testing of that boat. After this activity in Finland, Papenberg was entrusted with the supervision of the assembly of the prepared 250-ton boats in the German Units and the Germania shipbuilding yard. The faultless completion on schedule of U-1 to U-12 is in the main the result of his technical knowledge and his unflagging industry. Later Papenberg was attached to the High Command of the Navy and belonged to the section headed by Captain (E) Bartenbach.

Training of submarine personnel

In order to restore rapidly the preparedness for war of the new German U-boats, it was not only necessary to make available the submarines themselves, but it was also necessary to provide, as thoroughly as possible, preliminary training for submarine personnel. As already mentioned, the test runs of the first Finnish 500-ton and 100-ton U-boats gave us the opportunity to train some German naval and engineering officers as members of the personnel during the test runs in practical submarine service. The test runs of the 750-ton boat built in Spain, later in Turkey gave additional opportunity to give German naval and engineering officers practical training in the service on submarines.

Special full use could be made of the test runs during the summer months of the years 1933 and 1934, of the 250-ton boat built in Finland for the practical training of a great number of German naval officers and some sergeants, 1st class, and corporals of the technical personnel, who were later to serve on the first new German submarines. Two young naval construction officials who were later to serve on the new testing committee of the new German submarines also participated as members of the crew during the test runs in this practical submarine training in Finland.

Sale of the 250-ton boat

It is noteworthy that Bartenbach succeeded in carrying out the construction of the boat and the training of camouflaged German naval personnel without diplomatic unpleasantness for the Reich. Finally, Bartenbach also succeeded in having the boat taken over by the Finnish Navy at the full price, thus without any financial loss to the German Navy.

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7. Economic Rearmament

The founding of "Tebeg"

The need to investigate the possibility of creating and supplementing the arms procurement for the navy in the event of war, led early in 1925, to the founding of Tebeg (Technical Advice and Procurement Incorporated) at the instigation of the departmental chief of BW, Captain Hansen, after valuable preliminary work had been performed since 1923 by Ministerialamtman Dr. Schimpf at the direction of Captain Gladisch.

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Task of Tebeg

The task of Tebeg was to investigate the raw material situation, to study the industrial production potential, the supply of manpower, and in connection with this, all other questions of war economy such as fuel, power, communications, and transportation possibilities, and to examine the possibilities of imports from abroad and the question of building up of stocks. By a careful planning of the measures of war economy and a systematic preparation of production in the event of war, the necessary supply of ships and vehicles, weapons, ammunition, and other war materials was to be secured and the errors made during the period before and at the beginning of the last war avoided. To sum up: the goal was the preparation of the planned mobilization of the armament industry.

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Dissolution of Tebeg

When, during the winding up of the Lohmann affair, the dissolution of the Navis G.m.b.H. took place, the Tebeg was also dissolved in the middle of 1928 and was openly taken over as an economic group by the Naval Command Staff. The financing of its work, which had still to be carried on secretly, took place as before with special funds which were accounted for in a secret budget as of 1928 (see part III). This group was later changed into the Department of Economics and has been run as the Department of Military Economy of the Commander in Chief of the Navy since 1936.

Commodore Goehle (ret.)

In the successful execution of the work connected with war economy, special merit was earned by the director, Captain (E) Goehle, who just retired as a commodore. With great farsighted-

ness and a significant grasp of the task set, with tenacious and untiring energy, unwaveringly conscious of his goal, he directed Tebeg for 11 years and 2 months. He developed out of the small camouflaged "black" limited company the Department of Military Economy of the High Command of the Navy which has become an important link in the naval organization.

III. Planned armament works tolerated by the Reich Government but behind the back of the legislative bodies
(From 1928 until the seizure of power 1933)

The year 1927, which will always have a bad name because the Lohmann enterprises were uncovered, affected also very adversely the military work proceeding so well, and the hand already raised for the forging of arms was stopped while trying to strike—but only until German men had restored the situation again and even better than before.

If the individual actions had aimed towards their goal loosely and independently of each other, sometimes without knowing of each other at all, the work continued now in forceful combination and clever balance of power, and the rearmament was put on a foundation which was more and more expanded by the sharing of the responsibility with the Reich Government. The Reich Government could not ignore any longer the necessity of this type of work, though the internal political situation did not permit the participation of Reichsrat and Reichstag [Reich Council and Diet].

The extent and type of their work was characterized as before by the necessity for camouflage caused by the VT, a compulsion which was considered more and more intolerable as time marched on.

Exposure of the Lohmann enterprises

The press (Berliner Tageblatt), and with them the public, learned of this enterprise through the indiscretion of a discharged director of the Phoebus Film Company in the summer of 1927 (see II 3b). This man owned a document which concerned the granting of another Reich credit to the company. Reichstag and press, with the few exceptions friendly to military armament, raged and demanded an investigation by the Reichstag as well as the establishment of a control commission for the prevention of the formation of black funds which had appeared in connection with the Lohmann case and were removed from the control of the competent authorities. The investigation was carried out in a way and to an extent to be expected then, and will not be described here further.

Resignation of the Reich Minister of Defense

* * * Before its conclusion already Reich Minister of Defense, Dr. Gessler, resigned well aware of a certain share in the responsibility for the incident at the end of 1927. His place was taken by General Groener.

*Resignation of the Chief of the Naval Command Staff
Vice Admiral Zenker*

For the Reich Navy the incident was connected with an especially heavy loss—apart from the indisputable damage done to its prestige—since also the highly deserving and popular Chief of the Naval Command Staff, Admiral Zenker, resigned from his office after the Lohmann case was brought to a conclusion, because he considered his continuance in office an unbearable burden for the navy. Thus, his conception of the service and of official duties, was the very strict conception of a gentleman.

Admiral Raeder

His successor, Vice Admiral Raeder, entered upon a difficult inheritance. He considered his first task to restore the prestige of the navy of the Reich, damaged in public eyes, in an orderly manner. Whoever witnesses the deliberations on the navy budget in those years in the budget committee and the plenum of the Reichstag can imagine the difficulty, but also the necessity of this task. The full impact of the personality of the new Chief of the Naval Command Staff was necessary for success.

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TRANSLATION OF DOCUMENT C-141
PROSECUTION EXHIBIT 992

DIRECTIVE, 10 FEBRUARY 1932, CONCERNING CONCEALMENT
OF TORPEDO EQUIPMENT ON PT BOATS

Berlin W 10, 10 February 1932

The Chief of the Naval Command
B.Nr. A III b 2271/31 Top Secret

[Stamp] Top Secret

[Stamp] Fleet Headquarters

Received: 15 February 1932

To:

Headquarters Naval Base, Baltic, Kiel
Fleet Headquarters, Kiel
Commander in Chief, Reconnaissance Forces

Inspectorate of Torpedoes and Mines, Kiel (3 copies)
Naval Arsenal, Kiel
Headquarters Naval Base, Atlantic, Wilhelmshaven
(for information)
Naval Wharf, Wilhelmshaven (for information)

Concerning: Equipment of S-boats [PT boats] with torpedoes

For reasons necessitated by political agreements and with special consideration for the Disarmament Conference it must be avoided that the 1st S—Boat Half-Strength-Flotilla which—within a few months—will consist of identical newly constructed S-boats, should be recognizable from the outside as a torpedo-carrying unit as it is not intended to include S-boats into the number of torpedo-carrying vessels granted to us.

I therefore order:

1. "S 2"—"S 5" at present at the construction wharf (Luerssen, Vegesack) will receive easily detachable metal tops to cover the cavities for the insertion of torpedo barrels. Steps should be taken by agreement of the naval arsenal, that the same procedure be followed in the case of "S 1."

2. The torpedo tubes for all S-boats are stored at the naval arsenal for immediate construction. They will be put on board for measuring and construction during the test trips, one after the other, so that *only one boat at a time is a torpedo carrier*.

As far as the public is concerned this boat will temporarily be used for experiments and will not be anchored with the other unarmed boats of the half-strength-flotilla on account of the striking similarity of type. The time for construction and, therefore, the actual carrying of the torpedo tubes is to be as short as possible.

3. Insertion of torpedo tubes in S-boats is planned as soon as the political situation permits.

[Signed] RAEDER

TRANSLATION OF DOCUMENT C-29
PROSECUTION EXHIBIT 993

RAEDER'S DIRECTIVE TO THE NAVY TO SUPPORT THE GERMAN
ARMAMENT INDUSTRY, 31 JANUARY 1933

B.Nr. M I 376/33 Top Secret

Berlin W, 31 January 1933

[Stamp] TOP SECRET

*General Directives for the Support of the German Armament
Industry by the German Navy*

The effects of the present economic depression have led to the conclusion here and there that there are no prospects of an active participation of the German armament industry abroad, even if the Versailles terms are no longer kept. There is no profit in it and it is therefore not worth promoting. Furthermore, the view has been taken that the increasing "self-sufficiency," would in any case, make such participation superfluous.

However obvious these opinions may seem, formed on account of the situation as it is today, I am nevertheless forced to make the following contradictory corrective points:

a. The economic crisis and its present effects must perforce be overcome sooner or later. Though equality of rights in war, politics is not fully recognized today, it will, by the assimilation of weapons, be achieved at some period at least to a certain extent.

b. The consequent estimation of the duties of the German armament industry lies mainly in the military-political sphere. It is impossible for this industry to satisfy, militarily and economically, the growing demands made of it by limiting the deliveries to our own armed forces. Its capacity must therefore be increased by the delivery of supplies to foreign countries over and above requirements.

c. Almost every country is working to the same end today even those which, unlike Germany, are not tied down by restrictions. Britain, France, North America, Japan, and especially Italy are making supreme efforts to ensure markets for their armament industries. The use of their diplomatic representations, of the propaganda voyages of their most modern ships and vessels, of sending missions and also of the guaranteeing of loans and insurance against deficits are not merely to gain commercially advantageous orders for their armament industries, but first and foremost to expand their output from the point of view of military policy.

d. It is just when the efforts to do away with the restrictions imposed on us have succeeded, that the German Navy has an ever increasing and really vital interest in furthering the German armament industry and preparing the way for it in every direction in the competitive battle against the rest of the world.

e. If, however, the German armament industry is to be able to compete in foreign countries, it must inspire the *confidence* of its purchasers. The condition for this is that secrecy for our own ends be not carried too far. The amount of material to be kept

secret under all circumstances in the interest of the defense of the country is comparatively small. I would like to issue a warning against the assumption that, at the present stage of technical development in foreign industrial states, a problem of vital military importance which we perhaps have solved, has not been solved there. Solutions arrived at today, which may become known, if divulged to a third person by indiscretion—which is always possible—have already often been superseded by new and better solutions on our part, even at that time, or at any rate after the copy has been made. It is of greater importance that we should be technically well to the fore in any really fundamental matters, than that less important points should be kept secret unnecessarily and excessively.

f. To conclude: I attach particular importance to guaranteeing the continuous support of the industry concerned by the navy, even after the present restrictions have been relaxed. If the purchasers are not made confident that something special is being offered them, the industry will not be able to stand up to the competitive battle and therefore will not be able to supply the requirements of the German Navy in case of need.

[Signed] RAEDER

Distribution:

A
B
VGM
Ing.
K
Abw. (for information)

2. CONTEMPORANEOUS DOCUMENTS, 1933 TO FEBRUARY 1938—THE HITLER PERIOD BEFORE THE INVASION OF AUSTRIA

PARTIAL TRANSLATION OF DOCUMENT NOKW-3132
PROSECUTION EXHIBIT 1419

EXTRACTS FROM "VOELKISCHER BEOBACHTER" OF 2 AND 6
FEBRUARY 1933, CONCERNING RELATIONS BETWEEN
THE ARMED FORCES AND HITLER

Berlin, 1 February [1933]

Reich Defense Minister von Blomberg to the armed forces:
"The confidence of our Commander in Chief, Reich President Field

Marshal von Hindenburg has placed me at the head of the armed forces. I take over this office with the firm will to keep the Reichswehr, in accordance with the heritage of my predecessors, an instrument of the state above all parties. I will assist all efforts directed at making the people more capable of being soldiers, and will soon make the Reichswehr a real guarantee of the national security of the Fatherland."

*The Armed Forces Shoulder to Shoulder with the New Chancellor**

Berlin, 5 February [1933]

Upon invitation of the newly appointed Reich Defense Minister, von Blomberg, Reich Chancellor Adolf Hitler took the opportunity to speak about the aims of his policy before a great number of the highest Reichswehr officers. All the high officers of the army and navy were convoked by the Reich Defense Minister von Blomberg for this first official contact between the Reich Chancellor and the leading corps of the armed forces. The Reich Chancellor gave a detailed report on the political situation, and the coming development in Germany planned by the new Reich Government. In view of the new epoch started 30 January, this meeting is of great importance, it was a proof of the close connection between the policy of the new government with the tasks of the armed forces whose decisive importance for the exterior security of the German people will, under the new government, appear in a stronger light than heretofore. This connection is to be seen also from declarations made by members of the armed forces. Colonel von Reichenau the newly appointed chief of the Ministry Office in the Reich Defense Ministry who, in collaboration with new Reich Minister von Blomberg, formerly Commander in Chief of Military District I, rendered eminent service as Chief of Staff of the First Division in Military District I in Koenigsberg by the construction of the defense positions in East Prussia, declared that he takes up his new office with the same enthusiasm which is voiced in the proclamation of the new Reich Government to the German people.

General von Reichenau declared with reference to the general directives for the new command of the armed forces: "The armed forces were never more identical with the tasks of the State than today."

* * * * *

* Edition A, "Voelkischer Beobachter," South German Edition, Munich, 6 February 1933, No. 37.

PARTIAL TRANSLATION OF DOCUMENT C-166
PROSECUTION EXHIBIT 997

MEMORANDUM FROM NAVAL COMMAND OFFICE, 12 MARCH 1934,
CONCERNING AUXILIARY CRUISERS

Naval Command Office
A II c 47134 Top Secret

Berlin, 12 March 1934

[Stamp] *Top Secret*

* * * * *

Subject: Preparation of auxiliary cruisers

Reference: A 11 c 5937/33 Top Secret,
BB 8800/33 Top Secret

It is intended to include in the Establishment Organization 35 [AG—Aufstellungsgliederung] a certain number of auxiliary cruisers which are intended for use in operations on the high seas.

In order to disguise the intention and all the preparations, the ships will be referred to as "Transport ships (O)." It is requested that in future this designation only be used.

* * * * *

12. The preparations are to be arranged so that they can be completed by 1 April 1935.

13. A [Naval Command Office] requests to be kept in constant touch with the preparations.

[Seal]

Reich Defense Ministry
Naval Command

[Signed in draft] GROOS

PARTIAL TRANSLATION OF DOCUMENT C-153*
PROSECUTION EXHIBIT 998

NAVAL COMMAND DIRECTIVE, 12 MAY 1934, CONCERNING THE
ARMAMENT PLAN FOR THE THIRD PHASE

The Chief of the Naval Command
Reg. No. A I st 1000/34 Top Secret

Berlin, 12 May 1934
Copy No: 3

[Stamp] *Top Secret*

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. VI, pp. 967-969, for more complete translation of document.

Armament plan (A.P.) for the 3d Armament Phase

I. *General preliminary observations*

1. The *war tasks* within the framework of the defense of the Reich indicated to the navy by the Reich Minister of Defense, form the *basis* for all military considerations and decisions.

2. The *war and operational plans* resultant from the war tasks provide the direction for a clearly defined *armaments target*.

3. The planned organization of armament measures is necessary for the realization of the target; this again requires a coordinated and planned expenditure in peacetime. This organization of financial measures over a number of years according to the military viewpoint is found in the armament program and provides (a) for the *military leaders* a sound basis for their *operational* considerations and (b) for the *political leaders* a *clear picture of what may be achieved* with the military means available at a given time.

4. The A-plan should accordingly be the *directing factor* in the *composition* of the *annual budget*.

5. Owing to the speed of military political development since Germany quitted Geneva and based on the progress of the army, the new A-plan will only be drawn up *for a period of 2 years*. The 3d A-phase lasts accordingly from 1 April 1934 to 31 March 1936.

6. The 3d-phase emphasizes reorganization. The expenditure becoming necessary owing to increases in strength of the correspondingly increased training activity lessens the amount available for purely A objects. In the meantime discomforts of all kinds (smaller barrack space and the foregoing of some amenities for instance) will have to be accepted in order to enable the existing gaps in our armaments to be filled as far as possible. By the skilled apportioning and exploitation of arms and equipment available and under issue, expenditure on costly ~~training~~ equipment must be kept within limits commensurate with the progress of the armament program.

7. All theoretical and practical A preparations are to be drawn up with a primary view to readiness for a war *without any alert period*. Measures which require for their execution and completion a longer period than is envisaged in the A plan are temporarily withdrawn.

II. *Financial basis*

1. The following assumptions will form the basis for the preparations of the A.P.:

Budget 34	amounting to	396 [mill.]	
Budget 35	amounting to	434	830 mill. RM
<hr/>			
For current peacetime expenditure including personnel—			
1934		171	
1935		190	361 mill. RM
<hr/>			
Balance available for armament pur- poses of which for replacement construction		...	469 mill. RM
1934		148	
1935		175	323 mill. RM
<hr/>			
Balance for other armaments			<u>146 mill. RM</u>
* *	* *	* *	* *

2. The budget resources detailed in paragraph II, 1 include *all* sources available for naval purposes (public budget, conversion budget, B-budget, labor program, etc.).

* * * * * * *

[Signed] RAEDER

TRANSLATION OF DOCUMENT C-189
PROSECUTION EXHIBIT 1425

MEMORANDUM ON CONVERSATION BETWEEN HITLER AND RAEDER,
JUNE 1934, CONCERNING NAVY CONSTRUCTION PROGRAM

*Conversation with the Fuehrer in June 1934, on the occasion of
the resignation of the Commanding Officer of the*

“KARLSRUHE”

1. Report by the Commander in Chief Navy concerning increased displacement of D. and E. (defensive weapons).
Fuehrer's instructions: No mention must be made of a displacement of 25-26,000 tons, but only of improved 10,000 tons. Also, the speed over 26 nautical miles may not be stated.
2. Commander in Chief Navy expresses the opinion that later on the fleet must anyhow be developed to oppose England, that therefore from 1936 onwards the large ships must be armed with 35 centimeter guns (like the King George Class).
3. The Fuehrer demands that the construction of U-boats be kept completely secret, also in consideration of the Saar Plebiscite. [Translator's note: This document is in Raeder's writing but is not signed.]

PARTIAL TRANSLATION OF DOCUMENT NOKW-3132
PROSECUTION EXHIBIT 1419

EXTRACT FROM "VOELKISCHER BEOBACHTER" OF 3 AUGUST 1934,
REPORTING THE TAKING OF OATH OF ALLEGIANCE
TO HITLER BY ARMED FORCES

The Armed Forces take the oath to Adolf Hitler

Berlin, 2 August [1934]

Pursuant to the law concerning the Chief of State of the German Reich and of the German people, Reich Defense Minister General von Blomberg has ordered that the soldiers of the armed forces take the oath to the Fuehrer of the German Reich and German people.

The words of the oath are as follows:

"I take this holy oath before God, that I will render unconditional obedience to the Fuehrer of the German Reich Adolf Hitler, and of the German people, and as a brave soldier will be prepared at any time to sacrifice my life for this oath."

Following the taking of the oath, the armed forces gave three cheers for the new Commander in Chief, whereupon the two national anthems were played.

PARTIAL TRANSLATION OF DOCUMENT NOKW-3133
PROSECUTION EXHIBIT 1429

EXTRACTS FROM ARTICLE BY REICH MINISTER GENERAL VON
BLOMBERG ON "THE GERMAN CONSCRIPTION," PUBLISHED IN
THE "VOELKISCHER BEOBACHTER," 20 MARCH 1935

The German Conscription

By the Reich [Defense] Minister General von Blomberg
The "Voelkischer Beobachter" publishes below as the first German
paper a basic article by the Reich Defense Minister on the
German conscription which was proclaimed on 16 March

When on 16 March 1935, the Fuehrer and Reich Chancellor put the safeguarding of the German honor and the security of the Reich back into the hands of the German people itself, this was the final step in a development which took place before the eyes of Germany and all other countries as a *self-evident act* which, therefore, could not be a surprise to anybody.

This development was determined by two different factors. On the one hand, it had its basis in the healthy strength of a people which in spite of a lost war and collapse remained unbroken at its

core and was not prepared to renounce the free molding of its own life. On the other hand, there was the strangling pressure of a *unilaterally dictated peace*, the justification of which became every year more questionable, and was ever more felt as an insult because the promised equivalent failed to materialize. A people which maintained its honor in the war against a world of enemies found for its growing generation the doors *closed* to the service of arms. The small professional army which was forced upon us by a foreign system was studded with all kinds of prohibitions, and the wish of those excluded increased to a fact. Thus, it became the claim of the entire people and could not be ignored. A new Germany was born and forced its way through weakness and resignation. In the Reich of Adolf Hitler it found again a living shape.

* * * * *

The coming generation will prove themselves worthy of the right to the arms in the spirit of their forefathers. The National Socialist ideology and true community of the people will find their home in the Wehrmacht. A strong and solid army can exist only on the soil of the people from which it originates, and by which it is borne. It cannot exist without the closest contact with the forces and ideas effective in the *entire people*. Therefore, the return to the general conscription is by no means a turning back in any field. The Wehrmacht serves the present and paves the way for the German future. The sense of tradition which is considered by the Wehrmacht as a heritage and an obligation, is to be found in the idea of the equal performance of duties. The general conscription which again applies to everybody will be based upon the ideas of the National Socialist State.

* * * * *

TRANSLATION OF DOCUMENT C-139
PROSECUTION EXHIBIT 1005

DIRECTIVE 2 MAY 1935 CONCERNING PREPARATION FOR THE
REOCCUPATION OF THE RHINELAND

[stamp] *Top Secret*

The Reich Defense Minister
No. 1400/35 Top Secret L Chief
[Note in blue pencil: "By hand only"]

Berlin, 2 May 1935
2d copy

[stamp]

Naval Command

To:

Chief of the Army Command
Chief of the Naval Command
Reich Minister for Air

For the operation, suggested in the last staff conference of the armed forces, I lay down the code name "*Schulung*".*

The *over-all direction* of operation, "*Schulung*," rests with the Reich Minister of Defense as this is a joint undertaking of the three services.

Preparations for the operation will begin forthwith according to the following directives:

I. *General.*

1. The operation must, on issue of the code word, "Carry out *Schulung*," be executed by a surprise blow at lightning speed.

Strictest *secrecy* is necessary in the preparation and only the *very smallest* number of officers should be informed and employed in the drafting of reports, drawings etc., and *these officers* only *in person*.

2. There is *no* time for *mobilization* of the forces taking part. These will be employed in their peacetime strength and with their peacetime equipment.

3. The preparation for the operation will be made *without regard* to the present inadequate state of our armaments. Every improvement of the state of our armaments will make possible a greater measure of preparedness and thus result in better prospects of success.

II. *In particular*, I request suggestions about the following points:

1. *Army Command*—

a. How many divisions ready for action and what other suitable troops, including all motorized troops, can be made available for the operation?

(1) *Basis* of the calculations.

(2) Restriction to pure defense—if necessary delaying resistance—in the West.

(3) Reinforcement of the necessarily inadequate forces there by the *East Prussian divisions* which will be *transported* there immediately by rail or sea.

* "*Schulung*" (training) was the code word for the reoccupation of the Rhineland.

- b. Concentration area or areas and time taken by concentration.
- c. Plans for the carrying out of the operation.

2. *Navy Command*—Safe transport of the *East Prussian troops by sea* if transport by land is not possible.

3. *Air Force*—

a. Support for the attack carried out under “Schulung,” by the army.

b. Examination of the possibilities of further assistance to the defense in the West.

[Signed] v. BLOMBERG

PARTIAL TRANSLATION OF DOCUMENT 2288-PS
PROSECUTION EXHIBIT 1006

EXTRACTS FROM HITLER'S REICHSTAG SPEECH, 21 MAY 1935,
PUBLISHED IN "VOELKISCHER BEOBACHTER," 22 MAY 1935

Adolf Hitler's Great Speech before the Reichstag

Berlin, 21 May 1935

Deputies! Members of the German Reichstag!

* * * * *

I turn now from these general observations to a precise determination of the current problems, and I arrive at the following position of the German Government:

1. The German Reich Government refuses to adhere to the Geneva Resolutions of 17 March. The Treaty of Versailles was not broken by Germany unilaterally, but the well-known paragraphs of the dictate of Versailles were violated and consequently invalidated by those powers who could not make up their minds to follow the disarmament requested of Germany with their own disarmament as agreed upon by treaty.

* * * * *

2. Because the other powers did not live up to their obligations under the disarmament program, the government of the German Reich no longer considers itself bound to those articles which are nothing but a discrimination of the German nation for an unlimited period of time, since through them Germany is being nailed down in a unilateral manner, contrary to the spirit of the agreement.

But it solemnly declares that this measure is being taken only with regard to those well-known paragraphs which discriminate

against the German people in a moral and factual way. Therefore, the government of the German Reich shall absolutely respect all other articles pertaining to the cooperation [Zusammenleben] of the various nations including territorial agreements; revisions which will be unavoidable as time goes by it will carry out by way of a friendly understanding only.

3. The government of the German Reich has the intention not to sign any treaty which it believes not to be able to fulfill. However, it will live up to every treaty signed voluntarily, even if it was composed before this government took over. Therefore, it will in particular adhere to all the allegations under the Locarno Pact as long as the other partners of the pact also adhere to it.

The government of the German Reich regards the fact that it has to respect the demilitarized zone as an extremely difficult contribution by a sovereign power to the pacification, and it believes to be compelled to call attention to the fact that the constant increase in the number of troops on the other side may not just be regarded to be of great comfort to these efforts.

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PARTIAL TRANSLATION OF DOCUMENT NOKW-3129
PROSECUTION EXHIBIT 1432

EXTRACTS FROM SPEECHES BY GENERAL LIEBMAN AND VON
BLOMBERG, 15 OCTOBER 1935, COMMEMORATING THE 125TH
ANNIVERSARY OF THE WAR ACADEMY; PUBLISHED IN
"BERLINER BOERSENZEITUNG," 16 OCTOBER 1935

The Fuehrer at the War Academy

125th Anniversary

Text of the Speeches by Generals von Blomberg, Beck*
and Liebmann

Lieutenant General (Infantry) Liebmann, Commander of the War Academy, spoke first. He said:

"At the beginning of the celebration for the 125th anniversary of the War Academy, it is my prerogative as present commander to welcome our guests on behalf of the Officers' Corps of the academy. I extend this greeting first of all to you, my Fuehrer, and I presume to thank you for appearing in our midst today as Supreme Commander of the German Armed Forces on this day of honor of the War Academy. This memorial day comes in the year in which one of the restricting bands of the

* See partial translation of Document NOKW-3131, Prosecution Exhibit 1431, immediately following for extracts from speech by General Beck.

Versailles Treaty has been torn away by your actions on 16 March, and the German people have been given again their freedom of arms. All activity of the armed forces since then is an indication of this deed and, in addition, this 125th year since the founding of the War Academy will be identified in its history as the one in which it became free again after a lapse of 17 years and could carry on its activities openly, restricted by nothing.

“We know, and we are convinced in our deepest being that we have solely your determined will and your infallible leadership to thank for our freedom, and—like the German people—we and the entire German Armed Forces will show our thanks to you, our Fuehrer, through unflinching faithfulness and devotion.

“I should like to greet also the ministers who are present and their deputies, the rectors of the Berlin Technical Institute, and the representatives of all other municipal offices, and I should like to extend my thanks that they are present and have indicated by their participation in this celebration their feeling for this Army institute. I extend greetings, further, to the military superiors of the War Academy, to the Reich War Minister, to the Commander in Chief of the Army, and to the Chief of the General Staff; and I should like to thank them on this occasion for their anniversary gift which has taken the form of this new building for the War Academy on the occasion of this celebration.

* * * * *

“I want only to express thanks today, that as a memorial gift a new, worthy, and beautifully equipped building has been placed at the disposal of the War Academy, and I shall not forget that there were times in which still other things were necessary in order to secure the existence of the academy and to make possible the continuation of its activities which are indispensable for the army. If at the same time at which the reconstruction of a great army has been decided and has been embarked upon, the War Academy, too, is able to exercise its functions unrestrictedly, it was possible only because in difficult and critical times—when the German Army was attacked at its very roots in keeping with the desires of the creators of the Versailles Treaty—chosen men have devoted themselves to the proposition that the chain which must bind the past with the future never broke, men who were steeped in the desire to retain the spiritual heritage of the General Staff and the War Academy and to hold fast until the hour of the freedom of arms

for Germany and the resurrection day of a great army. The War Academy is aware of the deep debt of thanks it owes to these men and welcomes, therefore, with particular joy and satisfaction, the deeply respected former chief of army command, General von Seeckt, who is among the guests today, and takes the opportunity not to equalize this debt of thanks but rather to recognize it. And this day extends an opportunity for a further recognition in exactly the way that the new German Army is deeply rooted in our magnificent and victorious old army, the newly founded War Academy feels itself bound firmly and indissolubly to the old army and the old War Academy. For the Officers' Corps of the War Academy it is, therefore, an extreme honor and joy to be able to greet Field Marshal von Mackensen, the oldest representative of the old army, and with him such a large number of former commanders and teachers of the old War Academy. We owe to these elder active officers and to the old army our military education and training. We were their pupils 30 or more years ago, and now we occupy posts of high responsibility in the new army. We know the sense of Goethe's statement, 'And what one is, one owes to others.' We know too, that we could not extend to and teach our pupils, and these who are training pupils today, anything better than that which was the kernel and content of your teaching: a principle of life which strives to be worthy of the great examples whose portraits adorn this hall, a conception of life and profession which places the objective far above the personal, in terms of which unrestricted devotion to the Fuehrer, the people, and the Fatherland is a matter of course, and over which stands in great letters the maxim: 'Be more than you appear.' May I extend to you at the close of my opening speech, my Fuehrer, my assurance that the War Academy in the sense of its more than a century-long existence will accept the fruit of your labors and will go forward."

Then General von Blomberg, Reich War Minister and Commander in Chief of the Armed Forces, spoke:

"My Fuehrer! Honored guests! Comrades! The War Academy is, we hear, the creation of General von Scharnhorst. It has given, in 125 years, many and distinguished General Staff officers to Prussia-Germany. To a long list of its pupils it has bequeathed, moreover, the spiritual armament with which they became heroes and great soldiers of historic stature and grandeur.

"One cannot demand more from any school than for the product to be considered average—even when the average is quite high. The War Academy, up until now, has fulfilled its

mission. To us is given the responsibility of being worthy of our heritage and of increasing it by a decisive era in the history of German arms."

Model—Scharnhorst

"I know of no better indicator and no more illustrious example than the personality of its founder, General von Scharnhorst. Let us consider him somewhat more closely: he was a man who set out on his way as an innocent country boy without sponsorship or protection, without skill in the customs of society, without any apparent advantages; and his way led him to the end that he became one of the great creative spirits of the German art of arms. A soldier whose entire being stood under the trinity of duty, honor, and patriotism; an organizer who recognized the signs of the times and who transferred what they offered into deeds; a great spirit whose most prominent characteristics were audacity and perseverance; a General Staff officer who wanted to give up, 'all seven decorations and his life,' to be 'commander for *one day*,' and who was mortally wounded on the field of battle without ever attaining that command; an early champion of universal military service, which only today, 125 years later, has been totally realized as a testament to the man, and the appearance of which lends particular luster to his hour of celebration. Must I emphasize that Scharnhorst was far in advance of his time and his environment? That he was not only a creative genius but also possessed the courage to express new things and to put them into practice? In the age of absolutism this officer wrote: 'One must channel into the nation the feeling of independence, one must give the nation the opportunity to assume individuality; only then will the nation respect itself and know how to force respect from others.' He liberated the army from the prejudices and foolish pedantry of an age gone by, and he placed it directly into the middle of the life of the nation. His opponents spoke of a 'vipers breed of reformer,' and called him a revolutionist. Yes, he was a revolutionary reformer who tore down all obstructions in order to establish the goal of his heart, the unity of people, state, and armed forces."

View of the Whole

" * * * Certainly the General Staff is the brain and nervous system of the army, but its strength is dependent and embodied in the total organism of the armed body. To preserve this armed body, hale and sound in all its organs, in head and heart, in nerves and members, is the primary mission of good General Staff work. One must know the capabilities and must

enlarge them, but one must never overtax them. All genius and all the most audacious flights of the intellect must, of necessity, run aground if the tools are not strong enough or their degree of capability is not exactly known. The General Staff derives its strength from the troops. The troops must be served by it in selfless labor.

“One may not consider however the ‘individual object’—the army—without ‘the whole’—the armed forces. All parts of the armed forces must be in agreement with each other, in order for there to be harmonious common attainment. From the trinity of army, navy, and air force, the threefold unity of the new Wehrmacht has been created. That requires many-sided knowledge, mutual understanding, and the sublimation of particular interests of the individual parts of the armed forces. The fact that there is a unified Wehrmacht broadens the field of views and poses new tasks for its leadership. This must be prepared and tested in peacetime in order to be solved successfully in war. The Armed Forces Academy, fashioned from the leading parts of the three branches of the Wehrmacht and charged with studying the large questions of combined war operations, is the fruit of this recognition. Its hour of birth coincides with the 125th anniversary of the founding of the War Academy. It should serve in the future to train leaders, along with this academy and the corresponding institutes for the air force and the navy. But even this view of the individual object does not yet comprehend the whole.”

*The Armed Forces Are Only a Part, Greater Yet
is the Nation*

“Service at arms is the service of honor to the German people and service in the general staff is nothing more than the service of honor with more exalted duties. One has to know the nation in order to be able to serve it. That means that one has to understand and follow its life in all streams of endeavor: in politics, culture, economics, and technology.

“The officer must know where the nation’s fountains of energy are to be found. This has nothing to do with political activity, but it certainly requires, for its view of the whole, the duty of thinking politically, the conviction with regard to the new principles of our way of life, the joyful recognition of the National Socialist ideology.

“May the War Academy and the General Staff in their individual fields of endeavor of tactics and operations, of leadership, troop training, and organization, never forget the experiences of the World War. This lesson was that the armed forces were

able to conduct classic annihilation operations, heroic defensive battles, and strong break-through operations, but they were never able to equalize or to bridge the spiritual trenches which separated the front from the home, the armed forces from the people. That certainly was not the fault of leadership and troops. That has other bases which were deeply rooted in the past, in the construction of the former state, and in the disunity of the people. All the more do all of us have to be trail blazers for the unity and singularity of people and state. Only then does the Wehrmacht have the firm foundation which it needs. Only then will the new Wehrmacht be the body Scharnhorst wanted to create: The unification of all moral and physical powers of all citizens.

“Have we now attained a concept of ‘the whole’? Former consideration has not yet unveiled the secret of victory. Clausewitz, the pupil and friend of Scharnhorst, indicates the solution of the question with the sentence:

“The most complete General Staff with the most correct approach and principles, does not yet constitute exceptional leadership of an army if the soul of a great hero is lacking.’ Here we come upon areas which exceed the sphere of competency of the War Academy and General Staff. Genius is labor—yes, but it’s also much more. Genius is also fate. And all the genius of soldierdom—the World War taught us this, too—does not mean necessarily the successful conduct of a war if the soul of a great statesman is lacking. It is politics which pervades all martial activity. It assigns heroes their mission and in peacetime it creates the foundation upon which rests the structure of the armed forces.

“The great political leader and the unified strength of the nation, the exceptional campaigners, and the integrated armed forces, and in it an army with the General Staff and troops which are able to compete with the old army on the grounds of the devotion of warriors and the demeanor of soldiers: that is the whole and they are the individual objects that comprise the great sphere in which the labors of the War Academy must be expended.

“I greet, and I congratulate the War Academy on its 125th birthday. May the word of its great founder, General von Scharnhorst, be applied to its future.

“One may not consider individual objects without being aware of the whole; to exalt and to enliven the spirit of the army, to unify inwardly the army and the nation, and to give them direction for their great and important destiny; this is the system which lies at the basis of our new arrangements.

"But we to whom it has been given to work at a task which never before has been presented so handsomely and honorably to German soldiers, want to strengthen this solemn hour with the promise of unshakeable faith and devotion to the man who has made a reality of Scharnhorst's lifelong goal. Our Fuehrer, Reich Chancellor, and Supreme Commander, the creator of the Third Reich, the unified Nation and the new Wehrmacht, Adolf Hitler—Sieg Heil!"

PARTIAL TRANSLATION OF DOCUMENT NOKW-3131
PROSECUTION EXHIBIT 1431

EXTRACTS FROM SPEECH BY THE CHIEF OF THE GENERAL STAFF,
LIEUTENANT GENERAL BECK, 15 OCTOBER 1935, COMMEMORATING
THE 125TH ANNIVERSARY OF THE WAR ACADEMY; PUBLISHED IN
"BERLINER BOERSENZEITUNG," 16 OCTOBER 1935

* * * * *

Count von Schlieffen and all those who listened to his masterful speech on 15 October 1910, could not perceive that this academy was doomed to die scarcely 9 years later by a dictate of 27 enemy states filled with hatred. *The Royal Bavarian War Academy*, founded in 1866, was erected on 19 July 1867, in Munich, and guided by the Prussian example, met the same fate.

However, just as the greatest defeat of the Prussian Army became the foundation for its marvelous resurrection, so the hour of death of our old magnificent army on 28 July 1919, led to the new life of the young Reich army in the sense of the declaration of Clausewitz: "that a people in most circumstances is unconquerable in its magnanimous fight for its liberty; that even the destruction of this liberty after a violent and honorable fight secures the rebirth of this people."

It was in this sense, that the highest leaders surviving the old army tackled the problem of the shackled 100,000-man army forced upon them in the period of transition. It was above all General von Seeckt, the historical creator of the new army, who looked upon his mission in this light when, on 6 July 1919, he took over the tasks of Chief of the General Staff of the Army for a short time and later on solved them as Chief of the "Allgemeine Truppenamt" (General Troops Department) and as Chief of the Army Command. He not only created from the small German Army an exemplary army, feared and admired throughout the world, and laid the military cornerstone for the present rebuilding of the Army, but also from the beginning devoted all his care to the *preservation and furtherance of a general staff* and a military leadership of high standard.

* * * * *

For the grasping of the essence and the conduct of war, and not last of the moral factors commanding both of them, the history of war will always remain, insofar as one cannot use one's own experience, the inexhaustible fountain; the history of war, as Schlieffen repeatedly pointed out, teaches us how everything came to pass, how it had to be, and how it always will be.

That, however, already the history of the World War cannot be considered any more only from the viewpoint of a battle by the mutual military forces, but by the entire national power of the enemy, also of its economic psychological power, should be an urgent warning to all instructors and students of the young armed forces to the *reality of a future war*.

In that case the Wehrmacht will always represent only part of the powers needed by a nation wanting to survive in a life and death struggle.

* * * * *

May the officers who go through the War Academy always be conscious of the proud tradition of this institution, as well as of the duty which they owe to the man who recreated and restrengthened the German Armed Forces, who finally took the fetters of Versailles from it, and to the new State which assures us a stronger foundation than ever in a united nation if some day again only the call to arms should be left for the defense of the Fatherland.

In this sense I congratulate the War Academy on its jubilee today.

* * * * *

TRANSLATION OF DOCUMENT C-159
PROSECUTION EXHIBIT 1013

ORDER, 2 MARCH 1936, FOR THE REOCCUPATION
OF THE RHINELAND

[Raeder's initials]

[Red pencil note]

Submitted to Commander in Chief
of the Navy.

The War Minister and Com-
mander in Chief of the
Armed Forces

Berlin W 35, 2 March [19] 36

Tirpitzufer 72-76

Telephone: B1

Kurfuerst 8191

Written by an officer

W A No. 380/36 Top Secret L I
Matter for Chiefs

To:

The Commander in Chief of the Army

The Commander in Chief of the Navy

The Reich Air Minister and Commander in Chief of the Air
Force

[Stamp]

High Command of the Navy
Reg. No. A I Op 14/36

1. The Fuehrer and Reich Chancellor has made the following decision:

By reason of the Franco-Russian Alliance, the obligations accepted by Germany in the Locarno Treaty as far as they apply to Articles 42 and 43 of the Treaty of Versailles which refer to the demilitarized zone, are to be regarded as obsolete.

2. Sections of the army and air force will therefore be transferred simultaneously in a surprise move to garrisons of the demilitarized zone. In this connection I issue the following orders:

3. *a.* Reforming his divisional staffs, the Commander in Chief of the Army is to move forward sections consisting mainly of the VI, IX, and V Army Corps into the demilitarized zone in such a way that they will be transferred to permanent garrisons on the Rhine and east of it. Apart from that, one infantry battalion shall be transferred to Aachen, one to Trier, and one to Saarbruecken. The Regional Police Inspectorates West, Southwest, and South will come entirely under the orders of the Commander in Chief of the Army for the purpose of incorporating them into the Army.

b. The Reich Air Minister and Commander in Chief of the Air Force will transfer one fighter squadron each to the area around Cologne and Coblenz, and sections of the AAA [antiaircraft artillery] into or near such towns on the lower and middle Rhine where the most important Rhine bridges are.

4. The movements are to be prepared and synchronized in such a way by the Commander in Chief of the Army and the Commander in Chief of the Air Force that the first detachment, includ-

ing the battalions assigned to Aachen, Trier, and Saarbruecken, and the AAA arrive in the Rhine valley at 1200 hours on Z-day and the first fighter squadrons land at the same time.

A second detachment comprising all the remaining sections of the army assigned to the demilitarized zone will follow within 24 hours. Orders for Z-day will be given at the appropriate time.

5. Marching orders for the troops which are to be transferred, are to be given as late as possible. Every precaution must be taken to shorten the period between the commencement of practical preparations for the actual move and the entry into the demilitarized zone.

The Commander in Chief of the Army will see to it that the responsible departments of the general and interior administration of the police force, of the municipalities, and of the Party are not informed before 0800 hours on Z-day about the billeting of army and air force men in their area.

6. To preserve the peaceful character of the operation, military security or advance measures are *not* to be taken without my express orders.

On Z-day, from 0800 hours until further notice, however, it must be ensured that the command posts of the three services can commence work day and night at short notice. Persons on leave are not to be recalled.

7. If the other powers who have signed the Locarno Treaty reply to the transfer of German troops into the demilitarized zone with military preparations, I reserve the right to decide on any military countermeasures.

In the event of enemy frontier violations with offensive intent, action must be taken in accordance with instructions for taking up position and battle orders.

8. I request—

a. Timely information on instructions given in accordance with 3*a* and 3*b*.

b. To be informed continuously on the progress of the transfer of garrisons, starting on Z-day at 1300 hours (WA Abteilung L). [Armed Forces Office, Department National Defense] Counter-espionage is being given special instructions.

c. That suggestions be made to me as soon as possible, as to what advance measures should be put into operation during the first critical stages in case military preparations by neighboring states become evident.

[Signed] v. BLOMBERG

PARTIAL TRANSLATION OF DOCUMENT NOKW-2896
PROSECUTION EXHIBIT 1434

EXTRACT FROM HITLER'S SPEECH TO MILITARY LEADERS ON HIS
BIRTHDAY, 20 APRIL 1936; PUBLISHED IN "VOELKISCHER
BEOBACHTER," 21 APRIL 1936

The Fuehrer Honors the German Armed Forces

Berlin, 20 April

The Fuehrer and Supreme Commander of the Armed Forces promoted today:

The Reich War Minister and Commander in Chief of the Armed Forces, General von Blomberg to field marshal;

The Commander in Chief of the Army, Lt. General of the Artillery Baron von Fritsch, to general;

The Commander in Chief of the Navy, Vice Admiral Raeder, to admiral;

The Reich Minister for Aviation and Commander in Chief of the Air Force, Lt. General of the Air Force Goering, to General.

The Congratulations of the Armed Forces

At 10 o'clock the Fuehrer received the representatives of the armed forces and accepted their congratulations. With the Reich War Minister and Commander in Chief of the Armed Forces, General von Blomberg came Lieutenant General of the Infantry von Rundstedt as Deputy of the Commander in Chief of the Army, Lieutenant General of the Artillery von Fritsch; the Commander in Chief of the Navy, Admiral Raeder; and the Commander in Chief of the Air Forces, Lieutenant General of the Air Force, Goering. After the welcoming speech of the Reich War Minister, General von Blomberg, the Fuehrer said:

"General, on this day I review the past year with proud joy. I also look ahead with unflinching confidence in the strength and, consequently, the future of our people. Its marvelous resurrection fills me with a deep thankfulness to all those who assisted me, through their loyal cooperation, in the successful leadership of the nation. My faith in the future of Germany is based on the knowledge of the immortal values of our people. However, at the same time, I rely on that organizational seizure of these values which alone seem to guarantee to me the fulfillment of this hope: on the National Socialist Party as the organizer and bearer of the new political will, and on the armed forces as the organizers and bearers of military strength.

In this moment when you, General, with the chiefs of the three branches of the armed forces, present to me the congratu-

lations of the German Army, I am prompted to thank you and at the same time the entire German Armed Forces most sincerely for the immense work you have performed in the resurrection of the German Army, the German Navy and in the new foundation of the German Luftwaffe.

I feel all the more thankful since I believe that, through this newly organized strength of the nation, we will sooner be in a position to safeguard peace for our people and maybe also for others, a peace on which depends so much happiness and well being.

If today, General von Blomberg, I promote you to field marshal; you, Lieutenant General Goering and Lieutenant General von Fritsch to generals; you, Vice Admiral Raeder to admiral; I, thus, bestow honor upon the entire German Armed Forces, upon each individual officer and each soldier.

I thank you again, gentlemen, for your loyal cooperation in the reestablishment of the new German Reich through the reconstruction of the German Armed Forces.”

* * * * *

PARTIAL TRANSLATION OF DOCUMENT C-175
PROSECUTION EXHIBIT 1022

LETTER FROM VON BLOMBERG TO COMMANDERS IN CHIEF OF
ARMY, NAVY, AND AIR FORCE, 24 JUNE 1937, INCLOSING A
DIRECTIVE FOR THE UNIFIED PREPARATION FOR WAR
BY THE ARMED FORCES

[Stamp] *Top Secret*

Matter for Chiefs
Through officer only

The Reich Minister for War and
Commander in Chief of the Berlin, 24 June 1937
Armed Forces [Stamp] Matter for Chiefs
No. 55/37 Top Secret, Matter for Chiefs L Ia

4 copies—2d copy

Subject: “Directive 1937-38”

Reference: W.A. 36/36 L Ia v. 26 June 1936

[In ink]

A I op. 34/37 Top Secret, Matter for Chiefs
Received: 25 June

Written by an Officer

Outgoing documents in connection with this matter and dealing with it in principle are to be written by an officer

Enclosed, "Directive for Unified Preparation for War by the Armed Forces," comes into force 1 July 1937. At the same time the, "Directive for the Unified Preparation of a Possible War by W.A., [Wehrmachtsamt] Army, Navy, and Air Force" (W.A. 36/36 matter for chiefs L Ia of 26 June 1936) will be cancelled and is to be returned to W.A. (L Ia) with covering letter by 10 July 1937.

I request the forwarding to me of the results of the considerations to be made, according to part 3 of the directive, by 1 September 37.

[Signed] v. BLOMBERG

Distribution:

Ob.d.H. [CinC Army] 1 covering letter (copy 1), 1 directive (copy 1)

Ob.d.M. [CinC Navy] 1 covering letter (copy 2), 1 directive (copy 2)

R.d.L. and Ob.d.L. (Reich Minister for Air and CinC Air Force) 1 covering letter (copy 3), 1 directive (copy 3)

W.A. (L) 1 covering letter (copy 4), 2 directives (copies 4 and 5)

[in ink]: A I op. 34/37 Top Secret, Matter for Chiefs.

[enclosure]

The Commander in Chief of the Armed Forces,
55/37 Top Secret Matter for Chiefs

Berlin, 24 June [19] 37

5 copies—Copy No. 2

Written by an Officer

Top Secret

Through officer only

A I op 34/37 Top Secret
Matter for Chiefs

Directive

For the Unified Preparation for War by the Armed Forces
(valid from 1 July '37 until presumably 30 September 1938)

Contents

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Part 2. Likely Warlike Eventualities (Concentrations).....	9-17
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Part 1

General guiding principles

1. *The general political position* justifies the supposition that Germany need not consider an attack from any side. Grounds for this are, in addition to the lack of desire for war in almost all nations, particularly the Western Powers, the deficiencies in the preparedness for war of a number of States and of Russia in particular.

The intention to unleash a European war is held just as little by Germany. Nevertheless, the politically fluid world situation, which does not preclude surprising incidents, demands a continuous preparedness for war by the German Armed Forces.

a. To counter attacks at any time.

b. To enable the military exploitation of politically favorable opportunities should they occur.

Preparations of the armed forces for a possible war in the mobilization period 1937-38 must be made with this in mind. They must therefore be prepared for various possibilities and will be apportioned according to—

a. General preparations (see par. 2).

b. Work on warlike eventualities, which owing to their probability stand high on the list, in shape of concentration plans with the participation of the organization detailed below (see par. 3).

c. Special preparations in the shape of studies and considerations, generally however only within the High Commands [Oberkommandos] (Special preparations see par. 4).

3. *The preparations of a general nature include:*

a. The permanent preparedness for mobilization of the German Armed Forces, even before the completion of rearmament and full preparedness for war.

b. The further working on, "mobilization without public announcement," in order to put the armed forces in a position to begin a war suddenly and by surprise both as regards strength and time.

c. The working on the transport of the bulk of the regular army from East Prussia to the Reich.

d. Preparatory measures in case German territory is violated suddenly by a foreign power with hostile intention.

* * * * *

3. Among the *probable warlike eventualities* for which *concentration plans will be drafted* are—

I. War on two fronts with the center of gravity in the West (Concentration “Red”).

II. War on two fronts with the center of gravity in the Southeast (Concentration “Green”).

For details see part 2 of the Directive.

4. *Special preparations are to be made* for the following cases:

I. Armed intervention against Austria (Special Case Otto).

II. Warlike entanglement with Red Spain (Special Case Richard).

III. England, Poland, Lithuania take part in a war against us. (Special case, “Enlargement Red/Green”).

* * * * *

The *Directive for the conduct of war* itself and the *drawing up of the objects of war*, which depend on the political and also the general military and economic situation at the beginning of a war, will be given through me by the Fuehrer and Supreme Commander.

[Signed] v. BLOMBERG

Part 2

Probable warlike eventualities (Concentrations)

I. *War on two fronts with center of gravity West* (Concentration “Red”).

* * * * *

II. *War on two fronts with center of gravity Southeast* (Concentration “Green”).

1. *Suppositions.* The war in the East can begin with a surprise German operation against Czechoslovakia in order to parry the imminent attack of a superior enemy coalition. For such an action the political conditions in accordance with international law must be created *beforehand*.

2. The task of the German Armed Forces is to prepare in such a way that the bulk of the whole strength can break into Czechoslovakia quickly, by surprise and with the greatest force, while in the West the minimum strength is provided as a rear cover for this attack. The aim and object of this surprise attack by the German Armed Forces should be to eliminate completely, for the duration of the war, the threat by Czechoslovakia to the rear of the operations in the West, and to take from the Russian Air Force the most substantial portion of its operational base in Czechoslovakia. This must be done by the defeat of the enemy armed forces and the occupation of Bohemia and Moravia.

* * * * *

Part 3

Special preparations

The following special cases are to be considered inside the High Commands, in general without participation by outside authorities.

I. *Special Case "Otto"*—"Armed intervention in Austria in the event of her restoring the Monarchy."

The object of this operation will be to compel Austria by armed force to give up a restoration.

Making use of the domestic political divisions of the Austrian people the invasion will be made in the general direction of Vienna and will break any resistance.

* * * * *

II. *Special Case "Richard"*—"Warlike entanglements with Red Spain."

The Spanish Civil War contains the danger that through accidental or provoked incidents conflict may arise between Germany and Red Spain which can lead to a state of war between the two governments.

For this case preparatory considerations are to be made only by the navy. For the army and air force it will remain a matter of assistance for White Spain with material and personnel, as has been the previous procedure. Placing of parts of the air force under command of the navy may come into question.

III. *Special Case, "Enlargement Red/Green"*—The military political starting point used as a basis for concentration plans, "Red and Green" can be aggravated if either England, Poland, or Lithuania, or all three countries mentioned, join the side of our opponents from the beginning of the war.

Thereon our military position would be worsened to an unbearable, even hopeless, extent. The political leaders will therefore do everything to keep these countries neutral, above all England and Poland.

Nevertheless considerations are to be made as supplements to concentration plans, "Red and Green" for the eventuality of the failure of this intention of the political leadership.

The following conditions are to be the basis for the considerations:

a. England—England will employ all her available economic and military means against us. She will at first support France with sea and air forces and eventually try to win Belgium and Holland as bases.

b. Poland—That Poland should take part in an opening of hostilities against us, where possible at the side of Russia, is, in the *present* political situation, more than improbable. Should it nevertheless come to this, then Poland's land concentration against Germany would take place in a form which is, in its essence, known to us, in order to gain first of all East Prussia and, cooperating with Czechoslovakia, Silesia.

With her air force, apart from using parts against East Prussia, she will take part in a Czech-Russian attack against the Reich, and at sea she will cooperate with the Russian Fleet to interrupt the connection between East Prussia and the Reich.

c. Lithuania—Lithuania will, above all, serve the Russian Air Force as an advanced base. An attack on land need only be reckoned with in combination with Poland or after the arrival of Russian Army forces in Lithuania.

PARTIAL TRANSLATION OF DOCUMENT NOKW-2630
PROSECUTION EXHIBIT 1019

ARTICLE ON "CONDOR LEGION" PUBLISHED IN "VOELKISCHER
BEOBACHTER", 31 MAY 1939

THOSE WERE THE MEN OF THE "CONDOR LEGION"

During the next few days the "Voelkischer Beobachter" will report on the deeds of German volunteers who fought in Spain as men of the Condor Legion. From diaries, personal reports, and from what our special correspondents saw in Spain, the public will gain a comprehensive picture of what German soldiers accomplished in Spain.

At the end of July 1936, the Fuehrer decided to support General Franco and the Spanish Nationalist cause in their fight against

bolshevism. A first detachment of 85 picked volunteers left Hamburg by sea and 20 Junkers transport planes were at the same time sent to Spain by air. The task of this first detachment was to support Franco in ferrying troops stationed in Spanish Morocco to Spain.

The first volunteers received reinforcements in September in the form of fighters, a reconnaissance squadron, a heavy antiaircraft battery and two armored companies. At the same time, Colonel Warlimont, G.S.C., was sent to Nationalist Spain as Plenipotentiary Delegate of the German Armed Forces and as first leader of the volunteer corps.

The development of the war then made it necessary to reinforce the German troops by a complete air force corps which arrived in Spain in November 1936. It consisted of the following units: one bomber group, one fighter group, one reconnaissance squadron (land), one reconnaissance squadron (sea), one reinforced anti-aircraft detachment, one air signal detachment and one air force depot.

The name "Condor Legion" gradually evolved, and all the volunteers are now allocated to its various units. Apart from active participation in the war, Germans assumed another important task by training branches of the Spanish Army.

The "Drohne" staff group, two companies, and one transport company, were used at the beginning of October in order to instruct Spanish officers, NCO's and enlisted men in tank warfare, and later also in antitank warfare, and the use of flame throwers. They also supported them in combat. The group was then strengthened by another company and until the end of the war its tasks were the following: (1) to advise the Spaniards before and during tank and antitank actions, during terrain reconnaissance, also regarding enemy camps, and possibilities of attack; (2) to take part in combat with their own tank and motorcycle patrols; (3) to instruct the constantly arriving relays of fresh crews on German tanks and captured Red ones, as well as antitank, flame-thrower, and transport vehicles.

Because of the favorable results of this training, the Spanish Nationalist leadership asked for German cooperation in training other branches of the service as well. In the spring of 1937, training camps were formed where, with German cooperation, the Spanish Nationalist officer and NCO reserve was schooled.

This training organization finally comprised instructional camps for company leaders with an infantry schooling battalion, three infantry cadet schools, four NCO infantry schools, one antitank and flame-thrower training camp, and one for signal troops. At and behind the front, courses for mortar warfare and also for

engineers, and antigas personnel were held. Spaniards of German origin, mostly veterans of the First World War, took part in this schooling beside German soldiers, and about 56,000 young Spaniards went through these courses.

In the campaign of summer 1937, the desire of the Spanish leaders to employ a rapid courier service at focal points and to dispose of a mobile telephone and radio organization was fulfilled by furnishing a signal group. It was commanded by Germans, used Spanish equipment, was manned by a mixed Spanish-German complement and gradually increased in size. Its use made it possible swiftly to establish from the outset the most urgent lines of communication even under exceedingly adverse conditions.

The first specialists for artillery, mines, and radio communications who arrived from Germany in August 1938, to support the Spanish Nationalist troops later formed the group, "North Sea," whose task it was to run and expand the mine layer service as well as the establishment, training and supervision during actual operations of an auxiliary mine-locating unit, the installation of arms and equipment bought by the Spaniards and instruction therein, and initial runs of Spanish PT boats and instruction in their use. The group, "North Sea," whose tasks were primarily of an advisory nature and which later on assumed charge of the practical training of officer candidates at the Spanish Naval Academy, also frequently took part in naval operations.

Thus approximately 5,000 German volunteers, who were replaced according to roster, fought in the Condor Legion.

Following Colonel *Warlimont*, first Plenipotentiary Delegate of the German Armed Forces in Nationalist Spain and leader of the first German Volunteer Corps, the then Brigadier General *Sperrle* became commander of all German volunteers in Spain on 6 November 1936. When he was recalled home for another assignment on 31 October 1937, the then Brigadier General *Volkmann* assumed supreme command of the Condor Legion on 1 November 1937. He was succeeded on 1 November 1938, by Brigadier General Baron von *Richtofen* who had already assisted Major General *Sperrle* as chief of staff of the Condor Legion in 1937. *Richtofen* remained commander of the legion until the end of the war.

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PARTIAL TRANSLATION OF DOCUMENT NOKW-3059
PROSECUTION EXHIBIT 1435

EXTRACTS FROM A SPECIAL EDITION OF "DIE WEHRMACHT,"
A PERIODICAL PUBLISHED BY THE OKW, CONCERNING
THE CONDOR LEGION

We fought in Spain

Men of the German Condor Legion report their experience in the Spanish Theater of War

—German Soldiers in Franco's Armed Forces—

"THE CONDOR LEGION" BY LIEUTENANT GENERAL OF THE AIR FORCE, SPERRLE

In the beginning of November 1936, 6,500 volunteers arrived in Cadiz who wanted to support General Franco in his fight for the liberation of national Spain from bolshevism. These volunteers, the Condor Legion, were transported to Sevilla, where airplanes, antiaircraft batteries, signal equipment, weapons, and motor vehicles stood ready at their disposal. Within a short time the following units were formed:

- 1 bomber group of 3 Ju[nkers] 52 squadrons
- 1 fighter group with 3 He[inkel] 51 squadrons
- 1 reconnaissance squadron of 12 He 70 planes
- 4 batteries of 8.8 cm. antiaircraft guns
- 2 light antiaircraft batteries
- 1 signal battalion of: 1 radio company, 1 telephone company, 1 air observation company, 1 flight control company
- 1 aircraft maintenance group, with depot and double machine-tool equipment
- 1 command staff.

This force was joined by a fighter squadron of Ju-52s which had been fighting in Spain previously for some months, a fighter squadron of He 51s, a naval squadron of He 59s and He 60s, and one 8.8 cm. antiaircraft battery.

Situation at the date of arrival of the Condor Legion

In the summer of 1936, Spanish national parts of the population had risen against the Republican government which was turning more and more radically leftist. The occasion was given by the shooting of the Monarchist Leader Calvo Sotelo in Madrid on 12 July. The shooting and gaoling of numerous nationally thinking officers and numerous Spaniards who belonged to nationally thinking parties led to a spontaneous uprising in many places in Spain. The attempt to centralize the movement geographically, and to time, and to organize it centrally, was frustrated by the tragic death of the leader of the Nationalist movement, General San Jurjo, who crashed during a flight from the Canary Islands to Madrid. While General Mola, then a divisional commander in Pamplona, collected all monarchist and national thinking people in the north, backed by his Navarrese troops around Zaragoza—

Pamplona—Valladolid, for the fight against the Red holders of power, General Queipo del Llano succeeded in securing the geographical starting point for the fight for liberation around Cadiz—Sevilla—Granada, at the head of some battalions and some Falange troops. In the south, however, there was a complete lack of units ready for action on the Nationalist side. General Franco, the closest collaborator of San Jurjo's, stood ready at the head of his mobilized Moroccan army around Tetuan. The fleet, including the bulk of the serving vessels, had declared for the Red government and dominated unchallenged the Spanish-Moroccan waters.

Now, it was through German airmen with their equipment of Ju 52 aircraft, that 15,000 men of the Foreign Legion and Moroccans were transferred to Jerez in a few days, together with their equipment, an achievement which will be left to later historians to appreciate.

* * * * *

Air War

The small Spanish Air Force had, at the beginning of the uprising, decided to join the Nationalist movement and the government in equal proportion. All kinds of aircraft, airliners, and training planes dropped their improvised bombs on friend and foe. This aspect changed already during July when German and Italian volunteer fighter pilots gained superiority in the air above Madrid, Zaragoza, Vitoria, and Leon by shooting down the Red fliers. Towards the end of October, modern foreign fighter and bomber planes appeared, first over Madrid, later also over other parts of the front on the Red side, especially technically superior Russian fighter planes; our side began to sustain losses which increased, and step by step, Red planes gained superiority in the air.

Naval Situation

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Activities of the Condor Legion up to the end of March 1937

This was the situation when, at the end of November 1936, the Condor Legion was ready for action. The commander of the Condor Legion suggested to Generalissimo Franco that he use the group of 30 Ju 52 bombers to interfere seriously with the Russian supply transports to the Mediterranean harbors of Cartagena and Alicante. The fighters and the heavy antiaircraft batteries should be used to keep down the Red air forces in the center of the ground fighting around Madrid. The Generalissimo agreed to these proposals.

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The Struggle for Madrid

At the beginning of December 1936, the Generalissimo decided to renew the struggle for Madrid. The available artillery was not sufficient for this struggle, the repelling effect of the numerous machine guns available on the Red side frustrated all of Franco's attacks, although he succeeded in seizing a part of the university city at the cost of considerable casualties. It had become necessary to support the attacks with the Junkers bomber squadrons of the Condor Legion. Numerous bombing attacks, with 30-40 tons of bombs used in each, did not achieve the desired success. The troops could not be induced to attack immediately after the bombing and thus to exploit the effect of the bomber squadrons being concentrated in a very narrow sector. These daylight attacks, felt very unpleasantly by the Reds, had an awkward after effect. The Reds concentrated all their available modern single-seaters around Madrid. The bomber group, flying in close formation, was sometimes even on their way into action, welcomed by 30-40, "Ratas," which had double the speed of the Junkers and were shooting with 4 machine guns, and it was only due to the defense with all the machine guns of the 30 Junkers that there were no serious losses.

Since the attacks of the bomber group in close cooperation with the troops did not lead to any tangible success, the commander decided to take up systematically the fight against the supply roads into Madrid and to break the resistance of the Red defenders of Madrid. Since Madrid depended for supplies on only three roads leading up from the Mediterranean Coast, this fight seemed to lead to favorable results. Night by night, at dusk and dawn, the strafing attacks were flown, which put a great strain on the crews. Under the constant peril of icing, the Gredos mountains rising to more than 2,500 m., had to be crossed at an altitude of at least 3,000 m. Through icing and through abnormally high down-currents, several aircraft were lost in the Gredos mountains through crashes or contact with the ground.

Only later, it became known that the defense of Madrid had been in immediate danger of collapse through this cutting-off of supplies. Apart from these attacks on the supply roads, systematic night attacks were carried out on the training center of the International Brigade in Albacete and on the Red airfields around Madrid, which very soon paralyzed the Red air attacks. Photo reconnaissance and intelligence about the fortifications of Madrid showed that even if one succeeded in penetrating into the city, one would have to count on heavy casualties in house-to-house and street fighting. This induced the commander of the Condor Legion to suggest to the Generalissimo to cut off Madrid by a simultaneous attack south of Madrid, first in an easterly direction across

the river Jarama, later turning north, and a simultaneous attack from the north, via Sigüenza. The Generalissimo agreed to this suggestion. Unfortunately, the two attacks, literally, got stuck in the mud because of the bad weather, the rain and snow storms during the rainy season. Because of the unfavorable weather, the air force was unable to give support to the extent which would have been necessary. So it had not been possible between the appearance of the Condor Legion in November 1936, and the end of March 1937, to change the fortunes of war in a way favorable to Franco's troops; on the contrary, the rearmament on the ground and in the air had been effected quicker on the Red side than on the Nationalist side, through the unlimited supplies of arms, guns, aircraft, and volunteers of all nations. The Reds had balanced their defeat at Malaga, which had been taken in February by Spaniards together with Italian Legionnaires, by their successes in the defense of Madrid. But the four and a half months of combat had been an indispensable, necessary time of apprenticeship for the Condor Legion; everything had been new, everything different from home: the people, the climate were different from home, and the methods of warfare did not resemble those of the last years of the World War, which one had experienced, or which one knew from books. The future had to prove the success of this time of apprenticeship.

The Seizure of the Northern Provinces

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The cooperation of General Mola, commander of the Army of the North, the commander of the Navarra Corps, General Solchiaga and his excellent chief of staff, then Colonel Vigon, was secured by complete mutual trust. All suggestions of the Condor Legion were gratefully received and followed up. The close cooperation between the ground troops and the air force, so far lacking, and a necessary condition for the success of the operations against Bilbao, was thus secured.

Two squadrons of light bombers of the Spanish air forces were subordinated to the Condor Legion. The Italian volunteers took part in the attack with one bomber group. One could not count on a surprise attack on the Red lines, since the deployment of the troops of the Corps Navarra could be seen from the Red positions situated higher. The Condor Legion realized that only a plan of attack worked out in every detail would promise success. The plan was worked out in cooperation between the Corps Navarra and the Condor Legion.

As agreed, the order to open operations was given at dawn on 31 March 1937. While the bomber squadrons battered the Red

sector reserves and the fortified positions in the rear, south of Ochandiano in cooperation with Spanish and Italian fliers; the artillery concentrated on the left wing directing their fire on the forward positions.

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It was found that the enemy had stood his ground where artillery alone had been used, and that he had abandoned his positions almost without resistance only where bombing attacks had taken place. Especially useful proved the action of two 8.8 cm. anti-aircraft batteries against two hill positions, strongly manned by the enemy, which were outside the range of the Spanish artillery.

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On the second day the right wing which had become stuck, could also be brought forward with the support of the bombing squadrons. But in the evening of the second day, it was found that the shock troops of the Corps Navarra were so tired out through insufficient food and lack of quarters that they demanded a day's rest. This created the danger of the enemy reorganizing his defensive powers. Following a protest by the Condor Legion, the order was given that only the morning of 2 April was to be used to replenish ammunition and food and that the attack was to be resumed at 1400 hours.

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The bombing attacks of the Legion were carried out accurately. The assault brigades had not taken the battered down positions because they were overtired.

In the early morning of 3 April, the attack was repeated. The bombers, constantly flying over the positions and constantly attacking with their bombs, brought about the sudden collapse of the originally strong enemy resistance.

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In the late afternoon the enemy brought up strong reinforcements towards the breach. All the German, Italian, and Spanish bomber squadrons were thrown against these reinforcements. Approximately 80 tons of bombs were dropped on these reinforcements. As a later reconnaissance of the battlefield showed, the result had been devastating for the Reds. Even when the first aircraft appeared, the Red infantry began to move back in flight, and their bulk was caught on the move by the exploding bombs. The hills attacked were occupied without a fight when night fell.

Through statements of prisoners and through statements of the Red leaders, it became known later that the result of the bombing attacks had had a catastrophic effect on the Red side.

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In four more days of combat the Nationalist infantry succeeded in taking the hill positions north of Ochandiano with the help of the Condor Legion and with few casualties.

Now followed the regrouping of the attacking forces in front of the positions near Vergara. A prolonged period of bad weather, however, postponed the attack. Only on 25 April, the White Infantry succeeded after a week's continued bombing attacks against the dominating positions in breaking through on both sides of Elgneta and to open the way for the attack on the, "Iron Belt". The Red positions southeast of Bilbao, which had been built in many months, were now ripped open on a 25 km. front. The soldiers of the Corps Navarra were driven forward by any means in a northwesterly direction. Continuous bombing attacks by the bomber groups on the crossroads and bridges slowed down the enemy's retreat so much that considerable parts could still be reached by the pursuers. In a few days, the enemy had been forced back for about 20 km., up to Guernica. The view was free up to the enemy main line of Bilbao, the "Iron Belt". Photo reconnaissance, carried out by the Condor Legion, confirmed that there were several lines of positions, wired and concreted, running in a 16 km. radius around the capital, which had been finished on both sides of all the roads leading into Bilbao, whereas the work on them was still in full swing on the northeast front. On these results of the reconnaissance the plan was based to drive a wedge against the position from the east and to break through it in one swift stroke.

The Rata and Curtiss fighter aircraft which appeared in the fighting around Bilbao were, by and by, destroyed by the two fighter squadrons of Bf 109s and one Italian fighter squadron. The attempt to feed the Red northern front with new bomber and fighter forces from the central front via France, did not succeed. The bulk of the Red air forces which were brought up did not succeed in reaching Bilbao; the rest was shot down before they could reach the northern territory of the Reds.

Breaking through the "Iron Belt"

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The attack against the main positions went according to schedule. Under the strict concentration of all German, Italian, and Spanish bomber squadrons, the resistance of the Red infantry

collapsed. The enemy's heavy machine guns were put out of action by the German 2 cm. antiaircraft guns firing into the embrasures of the concrete pillboxes. Red counterattacks, at night, which came up to within 20 m. of our lines, were shot to pieces by 2 cm. guns. The effect of the 2 cm. guns was so disheartening that wherever the Red counterattacks ran into 2 cm. guns, they were immediately discontinued.

On the second day, we had succeeded in breaking through the dreaded, "Iron Belt," surprisingly quickly and nearly without any losses of infantry. In the first place, this success was due to the cooperation between air force, artillery, and infantry, which had been tried out in long weeks. The attempt to destroy the enemy signal system by bomber attacks had so completely succeeded that the Red command in Bilbao obtained a clear picture of their own situation only four days after the break-through. In the course of the next four days, the resistance of Red rear guards in the immediate neighborhood of Bilbao was completely broken. Bilbao had been taken. It is true, the fight for Bilbao had taken nearly 3 months instead of a fortnight as planned. The assumption that the morale of the Basques would be low and that they would get no support from the Asturian battalions, proved false. The Basque soldiers and the Asturians had been fighting fanatically for their Marxist ideology.

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The Battle of Brunete

Within 48 hours, the Condor Legion was transferred from the Vitoria-Burgos region to Madrid. The Condor Legion was reinforced by the Spanish Ju 52 squadron, 2 light bomber squadrons, and two Italian fighter groups which had been stationed due north of Toledo. The Red attack was stopped after it had been carried forward for 18 km. in the direction of Navacarnero by continuous attacks of the bomber squadrons. A further advance would have made the whole of the Madrid front collapse. After the Red attack had been stopped, the Red air forces had to be destroyed in combat. The Reds had concentrated about 30 modern bombers (Russian—2-engined Kaliuskas, usually known as Martin bombers) and about 60 modern fighter planes (Rata and Curtiss single-seaters) on the aerodromes around Madrid, which attacked continuously with a very unpleasant effect the national troops and their supply lines behind the breach. Only with the strong fighter support given by the Italian fighter groups and the two German Bf 109 squadrons was it possible to carry out the attack with the technically inferior Ju 52 squadrons. After the Red advance had been stopped, the Red air activities were paralyzed by systematic

night attacks against the Red aerodromes. After a great number had been shot down over the battlefield by fighter aircraft and antiaircraft guns, no Red airman showed up over the battlefield of Brunete.

The intention of the Generalissimo was to restore the position on the ground around Brunete and to throw the enemy back into their old positions. The attacks against the Reds turned out to be very difficult and costly. Experience in cooperation of air force, artillery, and infantry, as had been gained in the fighting around Bilbao, was lacking, and thus the attack was not successful. On 24 July, the Generalissimo himself took over the supreme command. All available ground and air forces were thrown into the very strong Red positions. The infantry gained only a few hundred meters. The Red command even succeeded in throwing back the White infantry by counterattacks. On 25 July, the attack was repeated with the strictest concentration of all German, Italian, and Spanish air forces. Three times the great masses of Red tanks and infantry, standing by in the narrow valleys were attacked. Simultaneously, the total firing power of the artillery, including that of the five German heavy antiaircraft batteries was trained on the masses of the Reds assembled for the attack. After the second attack, mainly with 250 kg. bombs, which had a devastating effect on the Red masses, the morale of the Red shock troops collapsed suddenly. The Red troops were streaming back in flight. Red cavalry and Red tanks tried in vain to get their own men to stand by, shooting at them with live ammunition. The German He 51 squadrons pounced five times upon the hordes as they ebbed back, with their machine guns and with 10 kg. bombs, and prevented any sitting down of the retreating, demoralized enemy. The Reds themselves had given their losses through the attacks by the Nationalist air forces on 24 and 25 July, as approximately 30,000 men. The Reds' intention to attack had collapsed; the situation at Brunete had been restored, the attack in the north could continue. The Nationalist airmen had suffered considerable losses in this fight around Brunete; for the first time several had been shot down by Red night fighters.

The taking of Santander and Asturia

On 14 August, Italian Legionnaires deployed for attack on both sides of the road Burgos-Santander, supported by the Italian Air Legion, and the Corps Navarra, with 4 divisions, supported by the Condor Legion and the available Spanish squadrons, deployed on both sides of the road Palencia-Reinosa-Torrelavega. On 14 and 15 August, the two attacking columns had broken through the enemy positions after strong air and artillery preparations, and

had penetrated on 21 August, as far as the line San Vivente de Toranza-Toledo. The enemy was thrown back by incessant air attacks against the enemy positions and the roads in the rear.

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By request of the Generalissimo, parts of the Condor Legion which were already fighting in Asturia, were employed against Belchite. The Generalissimo had first intended to give up the fight in Asturia and to employ the total of his available forces around Zaragoza. At last the Generalissimo agreed to the arguments of the commander of the Condor Legion, first to clean up the position in the north completely, and thus the attack on the Asturian coast could continue.

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Daily operations (up to four times a day) of the air squadrons of the Condor Legion broke the resistance of the hardy Asturians. Strictest concentration of the air forces on strong points, which were to be taken, served to keep the fighting fluid. The fire of 4 heavy antiaircraft batteries directed against any recognized troop movement, against hills and roads, and continuous bombing attacks slowly undermined the will to resist of the Asturian fighting men.

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After we had succeeded in the middle of October in sinking nearly all the ships in the harbor of Gijon, among them 2 destroyers and several submarines, and setting the great fuel tanks in Gijon on fire, so that the Reds had no more fuel at their disposal, the Red leaders fled during the night of 20-21 October from Gijon, to be taken to French ships outside the 3 mile limit by Red boats and lighters.

How fierce the resistance of the Reds was, is proved by the following incident: When white flags were already indicating the break-down in Gijon and in Aviles, when Nationalist prisoners from Gijon already reached the Nationalist lines, marching on foot, two of our own bomber aircraft were still shot down by Red rifle fire. The rest of the Red air forces still in Gijon, about 30 modern fighter planes, led a heroic struggle up to the last day. Although Red fighter aircraft was destroyed daily, the tough Red fighter pilots still attacked the German fighter planes, sometimes successfully. Gijon was taken on 21 October 1937.

During 6 weeks alone, the Condor Legion dropped 2,500 tons of bombs and fired 1,130,000 rounds of machine gun ammunition, 22,500 rounds of 8.8 cm. shells and 31,480 rounds of 2 cm. shells.

Asturia was taken, the northern front wiped out. Strong forces were set free to be disposed of otherwise. The Generalissimo had great quantities of war material at his disposal for the formation of new units.

The armament base for a successful prolongation of the struggle had been prepared.

It was only a question of time until the troops of the Generalissimo would successfully conclude the war.

Generalissimo Franco to [the periodical] "Die Wehrmacht".

[Letterhead] (Coat of Arms) [printed]

[Printed] The Chief of State

[Printed] Generalissimo of the National Armies

[Handwritten, facsimile:]

The Spanish Army renders homage to the bravery and discipline of the German comrades, embodied in the glorious dead fallen on Spanish soil.

[Signed] FRANCO

Burgos, 2 May 1939

The Year of Victory

TRANSLATION OF DOCUMENT 386-PS*
PROSECUTION EXHIBIT 1033

NOTES ON HITLER CONFERENCE OF 5 NOVEMBER 1937

Notes on the Conference in the Reich Chancellery on 5 November 1937 from 1615-2030 hours

Present: The Fuehrer and Reich Chancellor
The Reich Minister for War, Field Marshal v. Blomberg
The CinC Army, General Freiherr von Fritsch
The CinC Navy, Admiral Raeder
The CinC Air Force, General Goering
The Reich Minister for Foreign Affairs, Freiherr v. Neurath
Colonel Hossbach

* The IMT judgment discussed the authenticity of this and other similar documents concerning Hitler's secret meetings on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939, and held:

"The documents which record what took place at these meetings have been subject to some criticism at the hands of defending counsel.

"Their essential authenticity is not denied, but it is said, for example, that they do not purpose to be verbatim transcripts of the speeches they record, that the document dealing with the meeting on 5 November 1937, was dated five days after the meeting had taken place, and that the two documents dealing with the meeting of 22 August 1939, differ from one another, and are unsigned.

"Making the fullest allowance for criticism of this kind, the Tribunal is of opinion that the documents are documents of the highest value, and that their authenticity and substantial truth are established.

The Fuehrer stated initially that the subject matter of today's conference was of such high importance, that its detailed discussion would certainly in other states take place before the Cabinet in full session. However, he, the Fuehrer, had decided not to discuss this matter in the larger circle of the Reich Cabinet, because of its importance. His subsequent statements were the result of detailed deliberations and of the experiences of his 4½ years in government; he desired to explain to those present his fundamental ideas on the possibilities and necessities of expanding our foreign policy and in the interests of a farsighted policy he requested that his statements be looked upon in the case of his death as his last will and testament.

The Fuehrer then stated: "The aim of German policy is the security and the preservation of the nation and its propagation. This is, consequently, a problem of space."

The German Nation comprises 85 million people, which, because of the number of individuals and the compactness of habitation, form a homogeneous European racial body, the like of which cannot be found in any other country. On the other hand it justifies the demand for larger living space more than for any other nation. If there have been no political consequences to meet the demands of this racial body for living space then that is the result of historical development spread over several centuries and should this political condition continue to exist, it will represent the greatest danger to the preservation of the German Nation [Volkstum] at its present high level. An arrest of the deterioration of the German element in Austria and in Czechoslovakia is just as little possible as the preservation of the present state in Germany itself. Instead of growth, sterility will be introduced, and as a consequence, tensions of a social nature will appear after a number of years, because political and philosophical ideas are of a permanent nature only as long as they are able to produce the basis for the realization of the actual claim of existence of a nation. The German future is therefore dependent exclusively on the solution of the need for living space. Such a solution can be sought naturally only for a limited period, about 1-3 generations.

Before touching upon the question of solving the need for living space, it must be decided whether a solution of the German position with a good future can be attained, either by way of an autarchy or by way of an increased share in universal commerce and industry.

(Continued from Page 505)

"That they are obviously careful records of the events they describe, and they have been preserved as such in the archives of the German Government, from whose custody they were captured. Such documents could never be dismissed as inventions, nor even as inaccurate or distorted; they plainly record events which actually took place."

Trial of the Major War Criminals, *op. cit. supra*, vol. 1, p. 188.

Autarchy—Execution will be possible only with strict National Socialist State policy, which is the basis; assuming this can be achieved, the results are as follows:

A. In the sphere of raw materials, only limited, but not total autarchy can be attained—

1. Wherever coal can be used for the extraction of raw materials autarchy is feasible.

2. In the case of ores the position is much more difficult. Requirements in iron and light metals can be covered by ourselves. Copper and tin, however, cannot.

3. Cellular materials can be covered by ourselves as long as sufficient wood supplies exist. A permanent solution is not possible.

4. Edible fats—possible.

B. In the case of foods, the question of an autarchy must be answered with a definite, "No".

The general increase of living standards, compared with 30–40 years ago, brought about a simultaneous increase of the demand and an increase of personal consumption even among the producers, the farmers, themselves. The proceeds from the production increase in agriculture have been used for covering the increased demand, therefore they represent no absolute increase in production. A further increase in production by making greater demands on the soil is not possible because it already shows signs of deterioration due to the use of artificial fertilizers, and it is therefore certain that, even with the greatest possible increase in production, participation in the world market could not be avoided.

The considerable expenditure of foreign currency to secure food by import, even in periods when harvests are good, increases catastrophically when the harvest is really poor. The possibility of this catastrophe increases correspondingly with the increase in population, and the annual 560,000 excess births would bring about an increased consumption in bread, because the child is a greater bread eater than the adult.

Permanently to counter the difficulties of food supplies by lowering the standard of living and by rationalization is impossible in a continent which had developed an approximately equivalent standard of living. As the solving of the unemployment problem has brought into effect the complete power of consumption, some small corrections in our agricultural home production will be possible, but not a wholesale alteration of the standard of food consumption. Consequently autarchy becomes impossible, specifically in the sphere of food supplies as well as generally.

Participation in world economy—There are limits to this which we are unable to transgress. The market fluctuations would be an obstacle to a secure foundation of the German position; international commercial agreements do not offer any guarantee for practical execution. It must be considered on principle that since the World War [1914–18], industrialization has taken place in countries which formerly exported food. We live in a period of economic empires, in which the tendency to colonize again approaches the condition which originally motivated colonization; in Japan and Italy economic motives are the basis of their will to expand, and economic need will also drive Germany to it. Countries outside the great economic empires have special difficulties in expanding economically.

The upward tendency which has been caused in world economy due to armament competition, can never form a permanent basis for an economic settlement, and this latter is also hampered by the economic disruption caused by bolshevism. There is a pronounced military weakness in those states which base their existence on export. As our exports and imports are carried out over those sea lanes which are dominated by Britain, it is more a question of security of transport rather than one of foreign currency, and this explains the great weakness in our food situation in wartime. The only way out, and one which may appear imaginary, is the security of greater living space, an endeavor which at all times has been the cause of the formation of states and of movements of nations. It is explicable that this tendency finds no interest in Geneva and in satisfied states. Should the security of our food position be our foremost thought, then the space required for this can only be sought in Europe, but we will not copy liberal capitalist policies which rely on exploiting colonies. It is not a case of conquering people, but of conquering agriculturally useful space. It would also be more to the purpose to seek raw material producing territory in Europe directly adjoining the Reich and not overseas, and this solution would have to be brought into effect for one or two generations. What would be required at a later date over and above this must be left to subsequent generations. The development of great world-wide national bodies is naturally a slow process and the German people with its strong racial root has for this purpose the most favorable foundations in the heart of the European continent. The history of all times—Roman Empire, British Empire—has proved that every space expansion can only be effected by breaking resistance and taking risks. Even setbacks are unavoidable; neither formerly nor today has space been found without an owner; the attacker always comes up against the proprietor.

The question for Germany is where the greatest possible conquest could be made at lowest cost.

German politics must reckon with its two hateful enemies, England and France to whom a strong German colossus in the center of Europe would be intolerable. Both these states would oppose a further reinforcement of Germany, both in Europe and overseas, and in this opposition they would have the support of all parties. Both countries would view the building of German military strong points overseas as a threat to their overseas communications, as a security measure for German commerce, and retrospectively a strengthening of the German position in Europe.

England is not in a position to cede any of her colonial possessions to us, owing to the resistance which she experiences in the dominions. After the loss of prestige which England has suffered owing to the transfer of Abyssinia to Italian ownership, a return of East Africa can no longer be expected. Any resistance on England's part would at best consist in the readiness to satisfy our colonial claims by taking away colonies which at the present moment are not in British hands, e.g., Angola. French favors would probably be of the same nature.

A serious discussion regarding the return of colonies to us could be considered only at a time when England is in a state of emergency and the German Reich is strong and well-armed. The Fuehrer does not share the opinion that the empire is unshakable. Resistance against the empire is to be found less in conquered territories than among its competitors. The British Empire and the Roman Empire cannot be compared with one another in regard to durability; after the Punic Wars the latter did not have a serious political enemy. Only the dissolving effects which originated in Christendom, and the signs of age which creep into all states, made it possible for the Ancient German to subjugate Ancient Rome.

Alongside the British Empire today a number of states exist which are stronger than it. The British mother country is able to defend its colonial possessions only allied with other states and not by its own power. How could England alone, for example, defend Canada against attack by America or its Far Eastern interests against an attack by Japan?

The singling out of the British Crown as the bearer of empire unity is in itself an admission that the universal empire cannot be maintained permanently by power politics. The following are significant pointers in this respect:

a. Ireland's struggle for independence.

b. Constitutional disputes in India where England, by her half measures, left the door open for Indians at a later date to utilize

the nonfulfillment of constitutional promises as a weapon against Britain.

c. The weakening of the British position in the Far East by Japan.

d. The opposition in the Mediterranean to Italy which—by virtue of its history, driven by necessity, and led by a genius—expands its power position and must consequently infringe British interests to an increasing extent. The outcome of the Abyssinian War is a loss of prestige for Britain which Italy is endeavoring to increase by stirring up discontent in the Mohammedan world.

It must be established in conclusion that the Empire cannot be held permanently by power politics of 45 million Britons, in spite of all the solidity of her ideals. The proportion of the populations in the Empire, compared with that of the Motherland is 9.1, and it should act as a warning to us that if we expand in space, we must not allow the level of our population to become too low.

France's position is more favorable than that of England. The French Empire is better placed geographically, the population of its colonial possessions represents a potential military increase. But France is faced with difficulties of internal politics. At the present time only 10 percent approximately of the nations have parliamentary governments whereas 90 percent of them have totalitarian governments. Nevertheless we have to take the following into our political consideration as power factors: Britain, France, Russia and the adjoining smaller states.

The German question can be solved only by way of force, and this is never without risk. The battles of Frederick the Great for Silesia, and Bismarck's wars against Austria and France were a tremendous risk and the speed of Prussian action in 1870, prevented Austria from participating in the war. If we place the decision to apply force with risk at the head of the following expositions, then we are left to reply to the questions, "when", and, "how". In this regard we have to decide upon three different cases.

Case 1. Period 1943-45—After this we can only expect a change for the worse. The rearming of the army, the navy and the air force, as well as the formation of the Officers' Corps, are practically concluded. Our material equipment and armaments are modern; with further delay the danger of their becoming out of date will increase. In particular the secrecy of "special weapons", cannot always be safeguarded. Enlistment of reserves would be limited to the current recruiting age groups and an addition from older untrained groups would be no longer available.

In comparison with the rearmament, which will have been carried out at that time by the other nations, we shall decrease in relative power. Should we not act until 1943–45, then, dependent on the absence of reserves, any year could bring about the food crisis, for the countering of which we do not possess the necessary foreign currency. This must be considered as a “point of weakness in the regime.” Over and above that, the world will anticipate our action and will increase countermeasures yearly. While other nations isolate themselves we should be forced on the offensive.

What the actual position would be in the years 1943–45 no one knows today. It is certain, however, that we can wait no longer.

On the one side the large armed forces, with the necessity for securing their upkeep, the ageing of the Nazi movement and of its leaders, and on the other side the prospect of a lowering of the standard of living and a drop in the birth rate, leaves us no other choice but to act. If the Fuehrer is still living, then it will be his irrevocable decision to solve the German space problem no later than 1943–45. The necessity for action before 1943–45 will come under consideration in cases 2 and 3.

Case 2—Should the social tensions in France lead to an internal political crisis of such dimensions that it absorbs the French Army and thus renders it incapable for employment in war against Germany, then the time for action against Czechoslovakia has come.

Case 3—It would be equally possible to act against Czechoslovakia if France should be so tied up by a war against another state, that it cannot, “proceed”, against Germany.

For the improvement of our military political position it must be our first aim, in every case of entanglement by war, to conquer Czechoslovakia and Austria simultaneously, in order to remove any threat from the flanks in case of a possible advance westwards. In the case of a conflict with France it would hardly be necessary to assume that Czechoslovakia would declare war on the same day as France. However, Czechoslovakia’s desire to participate in the war will increase proportionally to the degree to which we are being weakened. Its actual participation could make itself felt by an attack on Silesia, either towards the north or the west.

Once Czechoslovakia is conquered—and a mutual frontier, Germany-Hungary is obtained—then a neutral attitude by Poland in a German-French conflict could more easily be relied upon. Our agreements with Poland remain valid only as long as Germany’s strength remains unshakeable; should Germany have any setbacks then an attack by Poland against East Prussia, perhaps also against Pomerania and Silesia, must be taken into account.

Assuming a development of the situation, which would lead to a planned attack on our part in the years 1943–45, then the behavior of France, England, Poland, and Russia would probably have to be judged in the following manner:

The Fuehrer believes personally that in all probability England and perhaps also France have already silently written off Czechoslovakia, and that they have got used to the idea that this question would one day be cleaned up by Germany. The difficulties in the British Empire and the prospect of being entangled in another long drawn out European War, were decisive factors in the non-participation of England in a war against Germany. The British attitude would certainly not remain without influence on France's attitude. An attack by France without British support is hardly probable assuming that its offensive would stagnate along our western fortifications. Without England's support, it would also not be necessary to take into consideration a march by France through Belgium and Holland, and this would also not have to be reckoned with by us in case of a conflict with France, as in every case it would have as a consequence the enmity of Great Britain. Naturally, we should in every case have to bar our frontier during the operation of our attacks against Czechoslovakia and Austria. It must be taken into consideration here that Czechoslovakia's defense measures will increase in strength from year to year, and that a consolidation of the inside values of the Austrian Army will also be effected in the course of years. Although the population of Czechoslovakia in the first place is not a thin one, the embodiment of Czechoslovakia and Austria would nevertheless constitute the conquest of food for 5–6 million people, on the basis that a compulsory emigration of 2 million from Czechoslovakia and of 1 million from Austria could be carried out. The annexation of the two states to Germany, militarily and politically, would constitute a considerable relief, owing to shorter and better frontiers, the freeing of fighting personnel for other purposes, and the possibility of reconstituting new armies up to a strength of about 12 divisions, representing a new division per 1 million population.

No opposition to the removal of Czechoslovakia is expected on the part of Italy; however, it cannot be judged today what would be her attitude in the Austrian question, since it would depend largely on whether the Duce were alive at the time or not.

The measure and speed of our action would decide Poland's attitude. Poland will have little inclination to enter the war against a victorious Germany, with Russia in the rear.

Military participation by Russia must be countered by the speed of our operations; it is a question whether this need be taken into consideration at all, in view of Japan's attitude.

Should case 2 occur—paralyzation of France by a civil war—then the situation should be utilized *at any time* for operations against Czechoslovakia, as Germany's most dangerous enemy would be eliminated.

The Fuehrer sees case 3 looming nearer; it could develop from the existing tensions in the Mediterranean, and should it occur, he has firmly decided to make use of it any time, perhaps even as early as 1938.

Following recent experiences in the course of the events of the war in Spain, the Fuehrer does not see an early end to hostilities there. Taking into consideration the time required for past offensives by Franco, a further three years duration of war is within the bounds of possibility. On the other hand, from the German point of view a 100 percent victory by Franco is not desirable; we are more interested in a continuation of the war and preservation of the tensions in the Mediterranean. Should Franco be in sole possession of the Spanish Peninsula, it would mean the end of Italian intervention and the presence of Italy on the Balearic Isles. As our interests are directed towards continuing the war in Spain, it must be the task of our future policy to strengthen Italy in her fight to hold on to the Balearic Isles. However, a consolidation of Italian positions on the Balearic Isles cannot be tolerated either by France or by England, and could lead to a war by France and England against Italy, in which case Spain, if entirely in White (i.e., Franco's) hands, could participate on the side of Italy's enemies. A subjugation of Italy in such a war appears very unlikely. Additional raw materials could be brought to Italy via Germany. The Fuehrer believes that Italy's military strategy would be to remain on the defensive against France on the western frontier and carry out operations against France from Libya against the North African French colonial possessions.

As a landing of Franco-British troops on the Italian coast can be discounted, and as a French offensive via the Alps to Upper Italy would be extremely difficult and would probably stagnate before the strong Italian fortifications, the main sphere of action is North Africa. The threat to French lines of communication by the Italian fleet will to a great extent paralyze the transport of fighting personnel from North Africa to France, so that at its frontiers with Italy and Germany, France will have at its disposal solely the home fighting forces.

If Germany profits from this war by disposing of the Czechoslovakian and the Austrian questions, the probability must be assumed that England—being at war with Italy—would not decide to commence operations against Germany. Without British sup-

port, a warlike action by France against Germany is not to be anticipated.

The date of our attack on Czechoslovakia and Austria must be made independent of the course of the Italian-French-English war and would not be simultaneous with the commencement of military operations by these three states. The Fuehrer was not thinking of military agreements with Italy also, but in complete independence and by exploiting this unique favorable opportunity, he wishes to begin to carry out operations against Czechoslovakia. The attack on Czechoslovakia would have to take place with the, "speed of lightning."

Field Marshal von Blomberg and General von Fritsch in giving their estimate of the situation, repeatedly pointed out that England and France must not appear as our enemies, and they stated that the war with Italy would not bind the French Army to such an extent that it would not be in a position to commence operations on our western frontier with superior forces. General von Fritsch estimated the French forces which would presumably be employed on the Alpine frontier against Italy to be in the region of 20 divisions, so that a strong French superiority would still remain on our western frontier. The French would, according to German reasoning, attempt to advance into the Rhineland. We should consider the lead which France has got in mobilization, and quite apart from the very small value of our then existing fortifications—which was pointed out particularly by Field Marshal von Blomberg—the four motorized divisions which had been laid down for the West would be more or less incapable of movement. With regard to our offensive in a southeasterly direction, Field Marshal von Blomberg drew special attention to the strength of the Czechoslovakian fortifications, the building of which had assumed the character of a Maginot line and which could present extreme difficulties to our attack.

General von Fritsch mentioned that it was the purpose of a study which he had laid on for this winter to investigate the possibilities of carrying out operations against Czechoslovakia with special consideration of the conquest of the Czechoslovakian system of fortifications; the General also stated that owing to the prevailing conditions he would have to relinquish his leave abroad, which was to begin on 10 November. This intention was countermanded by the Fuehrer who gave as a reason that the possibility of the conflict was not to be regarded as being so imminent. In reply to statements by Field Marshal von Blomberg and General von Fritsch regarding England and France's attitude, the Fuehrer repeated his previous statements and said that he was convinced of Britain's nonparticipation and that consequently he did not be-

lieve in military action by France against Germany. Should the Mediterranean conflict already mentioned lead to a general mobilization in Europe, then we should have to commence operations against Czechoslovakia immediately. If, however, the powers who are not participating in the war should declare their disinterestedness, then Germany would, for the time being, have to side with this attitude.

In view of the information given by the Fuehrer, General Goering considered it imperative to think of a reduction or abandonment of our military undertaking in Spain. The Fuehrer agreed to this, insofar as he believed this decision should be postponed for a suitable date.

The second part of this discussion concerned material armament questions.

Certified:

[Signed] HOSSBACH

KIRCHBACH

(Colonel, G.S.C.)

PARTIAL TRANSLATION OF DOCUMENT NOKW-3115
PROSECUTION EXHIBIT 1439

EXTRACT FROM "VOELKISCHER BEOBACHTER," 6 FEBRUARY 1938,
CONCERNING THE RETIREMENT OF VON BLOMBERG
AND VON FRITSCH

Blomberg and Fritsch retired on grounds of health

Berlin, 4 February

The Fuehrer and Reich Chancellor sent the following letter to Field Marshal von Blomberg:

"Since 1936, when the reconstitution of complete German sovereignty in military and territorial spheres was accomplished, you have frequently asked me to release you from a service which made severe demands on your health.

"I now acquiesce, five years after the completion of the reconstruction of our people and their armed forces, in your desire which formerly has been denied. May you find recuperation in the time before you, which you deserve more than any other man.

"On 30 January 1933, you, Field Marshal, took before me the oath of allegiance to national socialism as the first officer of the new Reich. For five years you have remained true to it without qualification. During this time the singular military reorganization of the Reich took place which is recognized by German history.

"With these events your name will be bound historically until the end of time.

"I assure you at this time for myself and for the German people renewed expression of our deepest thanks."

The Fuehrer and Reich Chancellor sent the following letter to the Commander in Chief of the Army, General Baron von Fritsch, who is being relieved of his assignment:

"On the grounds of your poor health you have seen yourself forced to ask me for release from your position. After a brief respite in the South did not have the desired effect, I have decided to agree with your desire.

"I take the opportunity on your departure from active service in the armed forces to evaluate your splendid achievements in the reconstruction of the army with the deepest gratitude. Your name will always be connected historically with this renewal and restrengthening of the German Army in the time between March 1935, until February 1938."

PARTIAL TRANSLATION OF DOCUMENT NOKW-3115
PROSECUTION EXHIBIT 1439

EXTRACT FROM "VOELKISCHER BEOBACHTER," 6 FEBRUARY 1938,
ON HITLER TAKING OVER COMMAND OF THE
GERMAN ARMED FORCES

*The Fuehrer Takes Over the Supreme Command of the
Armed Forces*

*THE COMPLETE CONCENTRATION OF ALL FORCES IN
THE HANDS OF THE SUPREME LEADER*

*Armed Forces Office becomes High Command of the Armed
Forces and is Placed Under the Fuehrer as his Personal
Military Staff*

Berlin, 4 February

The Fuehrer and Reich Chancellor has issued the following order concerning the leadership of the armed forces:

"From this time onward I personally assume the command over the entire armed forces.

"The former Armed Forces Office [Wehrmachtsamt] in the Reich War Ministry, retaining its tasks, will be known as the, 'High Command of the Armed Forces' and will come directly under my orders as my military staff.

"The former Chief of the Armed Forces Office will be at the head of the staff of the High Command of the Armed Forces

and will be known as 'Chief of the High Command of the Armed Forces'. He will be equal in rank with the Reich Ministers.

"The High Command of the Armed Forces assumes at the same time the activities of the Reich War Ministry; the Chief of the High Command of the Armed Forces will exercise all functions of the former Reich War Minister under my authority.

"It will be the bounden duty of the High Command of the Armed Forces in peacetime to prepare the unified defense of the Reich in all particulars under my direction."

The Fuehrer and Reich Chancellor

[Signed] ADOLF HITLER

Berlin, 4 February 1938

Reich Minister and Chief of the Reich Chancellery

[Signed] DR. LAMMERS

The Chief of the High Command of the Armed Forces

[Signed] KEITEL

General Keitel, Chief of the High Command of the Armed Forces

The Fuehrer and Reich Chancellor has named the former Chief of the Armed Forces Office, Lieutenant General (Artillery) Keitel, "Chief of the High Command of the Armed Forces."

General Goering is designated Commander in Chief of the Air Force and is promoted to Field Marshal

The Fuehrer and Reich Chancellor has designated the Commander in Chief of the Air Force, General Goering, Field Marshal.

General von Brauchitsch is designated Commander in Chief of the Army

Berlin, 4 February

The Fuehrer and Reich Chancellor has designated Lieutenant General (Artillery) von Brauchitsch, Commander of Group IV, Commander in Chief of the Army and in the same order has promoted him to the rank of General.

PARTIAL TRANSLATION OF DOCUMENT C-23*
PROSECUTION EXHIBIT 1023

MEMORANDUM OF NAVY HIGH COMMAND, 18 FEBRUARY 1938,
ON QUESTIONS OF TYPE, SHIPBUILDING PLAN

High Command of the Navy
A-21-1

Questions of Type, Shipbuilding Plan

Copy

Copy No. 2

Berlin, 18 February 1938

M

to *Chief of Office A*

The true displacement of the battleships "Scharnhorst-Gneisenau", and, "F/G", exceeds by 20 percent in both cases the displacement reported to the British.

	Length	Beam	Displacement by type		Draught	
			Actual	Notified	Actual	Notified
Scharnhorst -----	226.0	30.0	31,300 ts.	26,000 ts.	8.55	7.50
"F"-----	241.0	36.0	41,700 ts.	35,000 ts.	8.69	7.90
"H I"-----	254.0	41.0	56,200 ts.	46,850 ts.	9.60	8.40
or "H II"-----	254.0	41.0	56,200 ts.	45,000 ts.	9.60	8.15
or "H III"-----	254.0	41.0	56,200 ts.	43,000 ts.	9.60	7.85

In the opinion of A IV, it would under no circumstances be right to report a larger tonnage than that which for instance England, Russia, or Japan will probably publish shortly, in order that we may not put upon ourselves the blame for a race in armaments.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT SCHNIEWIND SKL 113
SCHNIEWIND DEFENSE EXHIBIT 5

EXTRACT FROM, "NAUTICUS 1939," YEARBOOK FOR GERMANY'S
NAVAL INTERESTS, CONTAINING COMPARISON OF NAVAL
STRENGTH OF GERMANY, FRANCE AND GREAT BRITAIN
AS OF 1 SEPTEMBER 1938

* * * * *

* See "Nazi Conspiracy and Aggression", vol. VI, *op. cit. supra*, p. 827, for more complete translation.

A. Warships, commissioned

Ship Classes	Germany		France		Great Britain	
	Number	tons	Number	tons	Number	tons
Battleships.....	4 ¹	56,000	7	163,945	18 ²	495,550
Aircraft carriers.....			2	32,146	9	149,650
Cruisers.....	6	35,400	19	154,502	62	434,540
Destroyers.....	11	17,875	61	115,598	175	228,379
Torpedo boats.....	12	9,600	12	7,320		
Submarines.....	37	12,941	77	74,918	57	58,026

¹ Including three pocket battleships of 30,000 tons.

² Including three monitors.

B. Warships in construction

Ship Classes	Germany		France		Great Britain	
	Number	tons	Number	tons	Number	tons
Battleships.....	3	96,000	3	105,000	5	175,000
Aircraft carriers.....	2	38,500	1	22,000	4	92,000
Cruisers.....	5	50,000	1	8,000	15	106,100
Destroyers.....	11	18,991	12	18,176	24	39,600
Torpedo boats.....	12	7,200				
Submarines.....	14	9,022	10	9,088	13	14,660

C. Approved new constructions

Battleships.....			1	35,000	2	80,000
Aircraft carriers.....			1	22,000	1	23,000
Cruisers.....	2	14,000	2	16,000	7	55,900
Destroyers.....			6	8,316		
Torpedo boats.....	6	3,600				
Submarines.....	10	3,568	11	8,800	3	

PARTIAL TRANSLATION OF DOCUMENT C-23 PROSECUTION EXHIBIT 1023

MEMORANDUM FROM REICH DEFENSE MINISTRY TO COMMANDER
IN CHIEF OF THE NAVY, SEPTEMBER 1938, COMMENTING ON
"DRAFT STUDY OF NAVAL WARFARE AGAINST ENGLAND"

Reich Defense Ministry
A 24-2 Planning Committee

Copy No. 2

C O P Y

Vice Admiral and Chief of the Fleet Carls

Tender, "Hela", September 1938

Top Secret

Opinion on the, "Draft Study of Naval Warfare against England"

A. There is full agreement with the main theme of the study.

1. If, according to the Fuehrer's decision, Germany is to acquire a position as a world power she needs not only sufficient colonial possessions but also secure naval communications and secure access to the ocean.

2. Both requirements can only be fulfilled in opposition to Anglo-French interests and would limit their position as world powers. It is unlikely that they can be achieved by peaceful means. The decision to make Germany a world power therefore forces upon us the necessity of making the corresponding preparations for war.

3. War against England means at the same time war against the Empire, against France, probably against Russia as well, and a large number of countries overseas, in fact against $\frac{1}{2}$ to $\frac{2}{3}$ of the whole world.

It can only be justified and have a chance of success if it is prepared *economically* as well as *politically*, and *militarily*, and waged with the aim of conquering for Germany an outlet to the ocean.

* * * * *

**3. JOINT STATEMENT OF FIVE GERMAN MILITARY
LEADERS ON THE DEVELOPMENT OF THE GERMAN
ARMED FORCES AFTER THE FIRST WORLD WAR**

**PARTIAL TRANSLATION OF DOCUMENT 3798-PS
PROSECUTION EXHIBIT 1451**

**EXTRACTS FROM THE JOINT STATEMENT* OF FIELD MARSHAL VON
MANSTEIN, FIELD MARSHAL VON BRAUCHITSCH, GENERAL
HALDER, GENERAL WARLIMONT, AND GENERAL WESTPHAL,
SIGNED IN NUERNBERG ON 19 DECEMBER 1945**

Nuernberg, 19 November 1945

* Testimony of the defendant Warlimont, one of the authors of this joint statement, concerning the circumstances in which the statement was worked out appears in this section.

Introduction

As the last Commander in Chief of the German Army* before Adolf Hitler assumed command in December 1941, I, in agreement with several generals of the former army, consider it my duty to testify before the International Military Tribunal in Nuernberg on behalf of the entire German Army.

Given with complete frankness, our statement will comprise, to the extent of our knowledge, a complete survey of all facts and events which were significant for the German Army in the decisive period before and during the war. Each detail in the statements contained herein can be sworn to by at least one of the signers. This statement has been compiled from memory without the aid of any official documents.

The purpose of my statement is to give the representatives of the Allied Powers, who have convened here, an opportunity to gain as clear a conception as possible on these matters. At the same time, however, I believe I am fulfilling a duty toward the former soldiers of the German Army.

A. *The Army of the Reich from 1920 to 1933*

I. [1]. *Organization*—The army of the Reich was activated in 1920 according to the regulations of the Versailles Treaty with a strength of 4,000 officers and 96,000 enlisted men. It consisted of 7 infantry and 3 cavalry divisions, which were consolidated under the leadership of the Army Command and two army group headquarters. The Chief of the Army Command was subordinate to the Minister of National Defense [Reichswehrminister]. The soldiers served for 12 years and the officers for a period of 25 years. This was the formation of the 100,000-man army which existed until 1934.

2. *Weapons*—The weapons also correspond to the regulations of the Versailles Treaty. In the case of weapons which were not permitted, dummies were used for training purposes; the cavalry, for instance, used wooden machine guns.

3. *Armaments industry*—Weapons were manufactured by a limited number of factories which were permitted by the Versailles Treaty.

4. *Land fortifications*—The western fortifications were blown up. In the East we had only the obsolete fortifications at Koenigsberg, Pillau, and Loetzen with armament as permitted by treaty. The Oder fortifications at Breslau, Glogau, and Kuestrin had only completely obsolete installations without any weapons.

* Field Marshal von Brauchitsch.

5. *The General Staff, the Army Command, the War Minister—*

The so-called Large General Staff, the central office of the General Staff in Berlin, had been dissolved.

However, the officers of the General Staff of the units remained with the superior headquarter agencies with the approval of the Inter-Allied Control Commission. They received later on the designation, "Fuehrerstabsoffiziere" [Leadership staff officers]. They wore the uniform of the former General Staff. Moreover, there was an office in the Army Command staffed by, "Fuehrerstabsoffiziere." It was called, "Truppenamt" [Troops Office] and combined all the essential functions of the former General Staff. Its institution and field of activity were known to the Inter-Allied Control Commission and were approved by it.

There was no General Staff Corps as an independent unit or responsible military agency. The former General Staff had been a military central agency which was immediately subordinate to the Kaiser. The Chief of the Truppenamt worked under the Chief of the Army Command who, in turn, was subordinate to the Minister of War [Kriegsminister] whereas the Chief of the General Staff held a position of equal rank as that of the War Minister and had incomparably more influence than the War Minister.

The jurisdiction of the Chief of the Army Command was confined to the actual military work in the army. All questions exceeding this field in domestic or foreign policy were part of the function of the Minister of National Defense. He was a civilian and responsible to the Reich Parliament as a member of the cabinet. He alone was responsible for the budget, and thus he had the sole power of decision about the funds which had to be requested. The following questions were consolidated under his immediate jurisdiction in the office of the Ministry of the Army and Navy: Political questions, including the press, budget, and counter-espionage; the Legal Department; and questions concerning the League of Nations.

This organization, which distinguished clearly between military and political tasks, was the logical result of the parliamentary system of the German Republic under the Weimar Constitution. At the same time it conformed to the strict separation from politics as von Seeckt demanded from his Reich Army. This separation was a postulate of the time and the practical result of experience from history, as he saw it.

The Prussian Army, from which the German Army developed, as it existed before 1914, centered around the person of the king to whom it had sworn allegiance. Its funds had to be requested from the Prussian Diet and later from the Reich Parliament in which body it was represented by the Prussian Minister of War.

The appointment of the officers depended upon the military cabinet which was subordinate to the command jurisdiction of the king. The General Staff was responsible for the operational plans and for the training of the general staff officers for its own purposes and for higher headquarters. The Chief of the General Staff was originally subordinate to the Minister of War. The greatest man who held this office, Count Moltke, had developed this position, so that by 1914 it had assumed significance and had become completely independent from the Ministry of War. Count Moltke confined himself to the military field without seeking any political influence. His successor, Count Waldersee, however, was possessed of political ambition which contributed materially to his resignation after a short period of only two years. Count Schlieffen and the younger Moltke who succeeded Schlieffen in 1906 returned to the tradition of keeping aloof from politics as it had been practiced by the older Moltke.

The war of 1914–18, because of its character as a coalition war, unavoidably brought the General Staff in contact with politics. The peculiarity of the late Kaiser and the difficulties of the domestic situation were further reasons for placing the burden of political decisions more and more upon the shoulders of the General Staff whose chief became Field Marshal von Hindenburg during the war, with General Ludendorff as first Generalquartiermeister [General Staff officer in charge of supply and administration at headquarters of field forces]. Hindenburg had the confidence of the nation to the fullest extent. Ludendorff's superior personality excelled that of the civilian politicians to such an extent that decisions in the political field were made only with his participation. This, however, was in contradiction to all tradition. In the postwar period, remnants of the old army were involved in a political *coup d'état*, the "Kapp Putsch", which immediately proved a complete failure. Ludendorff participated in it as well as in the Hitler Revolution of November 1923, in Munich.

In the light of these events, it was von Seeckt's intention to keep the army aloof from all political connections and to erect it as a bulwark against revolutionary movements at home and against attacks from abroad. The soldier had no right to vote. Therefore, he was not interested in any party. His pay,—officer, as well as enlisted man—did not permit any trips abroad. Therefore, he had no connections outside the country. He depended completely on his military work; he had no political ambition and was hardly familiar with political events. This heritage of von Seeckt, the army's complete aloofness from the political life of the nation, had far-reaching results which extended deep into the years of the last war.

Von Seeckt was undoubtedly a man of considerable political ability. The temptation to enter the political stage and to play a leading part in it, was very enticing for him. But he never succumbed to it.

6. *The army and foreign policy*—During the decade in which von Seeckt was the head of the army, he experienced the occupation of the Ruhr and the Rhineland by the French Army in 1922, and the repeated demands for German territory which were voiced in Poland and Czechoslovakia. This meant that he saw Germany exposed on three sides of its extended frontiers to the claims of three powers, each of which had at its disposal an army superior to the German Army. As opposed to the 100,000-man army, France possessed an army of 600,000, Czechoslovakia of 250,000, and Poland 400,000 men. The war potential of these armies mounted 1,500,000, 600,000, and 1,000,000 men respectively. In view of this overwhelming superiority of Germany's neighbors, the training which von Seeckt afforded to the German Army could be confined merely to defense, and this was actually the case.

7. *The army and domestic policy*—In the beginning of the twenties, the army at home had repeatedly participated in combating revolutionary movements; it ceased concerning itself with these tasks as soon as the police force was strong enough to cope with the situation. At the time of the Munich Putsch in November 1923, which resulted in difficulties for the Bavarian Government, troops were used for the last time. The attitude of individual officers of the infantry school, who had taken Hitler's part, was generally rejected by the army.

The national and social motives of the NSDAP [National Socialist Workers' Party] undoubtedly appeared very attractive to many members of the army. The rowdy methods, however, and the intense anti-Semitism had a repulsive effect. In 1930, in Ulm, a few young officers violated the prohibitive regulation of being active in a political field by making propaganda for the NSDAP. They were court martialed. These events caused considerable commotion. The regimental commander who tried these officers was Colonel Beck, who later became the Chief of the General Staff of the Army.

At that time there were only very few officers who had any personal contact with Hitler or other leading members of the Party. General von Schleicher, the Chief of the Office of the Minister of Defense [Chef des Ministeramtes] had connections with most of the political persons of all parties. He strengthened these even more when he became Minister of War and Reich Chancellor. His intimate friend, von Hammerstein, the Chief of the Army Command, was known as an express opponent of the NSDAP.

Soon after Hitler assumed power, he was dismissed. His successor, von Fritsch, was appointed by von Hindenburg solely because of his military ability. Von Blomberg, who succeeded Schleicher as War Minister, had no political past. He appointed as chief of his office [ministeramt], von Reichenau, whom he knew from his former headquarters, who had been his chief of staff, and who was friendly towards the NSDAP. This caused frequent difficulties with the leading men of the army. When in 1938, von Reichenau was considered for the position of Commander in Chief of the Army, Hitler could not make up his mind to push him down the army's throat. In this connection he consulted the advice of his Chief of the General Staff, General Beck, and the senior officer of the army, von Rundstedt.

8. *The training of the army*—The training of troops for defensive war developed a tactical method known as, "prolonged resistance." Its purpose was to win time by evading the enemy over extended areas. During his 12-year term of duty the soldier was trained to fill a position at the next higher level in case of a possible enlargement of the army. An armed force totaling 300,000 men was contemplated, and such a force would have been barely sufficient for the defense against one of the immediate eastern neighbors of Germany.

In the early thirties, certain units of the cavalry were motorized. Until 1929, no plans for mobilization were available. The transfer of the army from a peacetime to a wartime status was contemplated for the first time on 1 April 1930. In such a case the seven infantry divisions were to be increased three-fold by drafting former professional soldiers and by recruiting volunteers. The trained reserve to be counted on, was estimated at approximately 150,000 men, but they were not registered or controlled in any way. Neither were there enough weapons to equip 21 divisions, and so it was provided that only the actual combat troops should be equipped with weapons. Those weapons which were prohibited to Germany by the Versailles Treaty, such as tanks and heavy guns, were studied and developed in cooperation with the army of a country which was not a signatory to the Versailles Treaty. The armament industry in Germany was confined to those firms which were approved by the Versailles Treaty. The large plants of the German arms and ammunition industry, from the period before 1918, did not violate the regulations imposed by the Treaty. A few small manufacturing plants for small arms ammunition were erected, but they proved very expensive and inefficient.

The fighting at the Polish border in the years following 1918, resulted in the formation of a small border patrol, an organization of volunteers from among the frontier population. Its weapons

were rifles, a small number of machine guns, and an even smaller number of guns. Its fighting efficiency was equal to that of an untrained militia. The so-called illegal Reichswehr ["Schwarze Reichswehr"], which consisted of the remnants of the Free Corps activated after 1918, was dissolved after a Putsch in Kuestrin in 1923.

The funds for the development of weapons abroad and for border patrols were incorporated in the budget and were appropriated by the Reich Parliament after approval of the Reich Government under the Chancellors Wirth, Stresemann, Luther, and Bruening. In the case of the border patrols this was done with knowledge and support of the Prussian Government, especially that of the Minister of the Interior.

This constituted an offense against the provisions of the Versailles Treaty. In 1925, the Inter-Allied Control Commission investigated the level of disarmament and recognized it as complete. According to the Versailles Treaty this should have been the starting point for a general disarmament. But nothing like that happened. As a result, Germany appeared justified in strengthening its own defense.

* * * * *

B. The Period from January 1933 to 31 March 1938

* * * * *

II. The Development of the Army's Position in the State, its Relationship with the Fuehrer and the Party, 1933-1938

When Hitler became Chancellor in 1933, Germany was in the threat of an economic crisis. The number of unemployed had reached the seven million mark. The bank crash of 1931, had conjured up all the dangers of the inflation years, years which removed the financial foundation of the upper middle classes whence came the majority of officers. Bloody clashes occurred almost every day. A renewed outbreak of the revolutionary movement which had filled the five years between 1918 and 1923, seemed imminent. The moderate parties seemed unable to cope with this situation. Hitler's program, however, promised peace at home and abroad. The results of his measures were surprising. Unemployment seemed to disappear, and good times seemed to be returning.

Neither the army nor its leading officers had any part in bringing Hitler to power. The army viewed with alarm the increase among the ranks of the SA which constituted the strongest revolutionary wing of the Party. By the end of 1933, Roehm claimed 400,000 SA men under his command. The army had 100,000 men at the time and the police no more than 60,000. The speeches of the SA leaders left no one in doubt that they wanted to assume

command of the army. Hitler's attempts, undertaken in April 1934, to reconcile the army and the SA, remained without success. The army was surprised by Hitler's actions against the SA on 30 June 1934. It was quite clear that steps had to be undertaken against these unruly elements, but the methods employed had a repulsive effect upon the army. General von Schleicher's death was considered an insult to the army. The charges which Hitler leveled against him were by no means believed. Unfortunately, it was impossible to bring proof to the contrary. Representations which were made to the Reich War Minister led to no result, according to information received by the undersigned from Generals von Rundstedt and von Witzleben, who were group commander and military district commander respectively, in Berlin at the time. Further steps were made impossible by the vote in the Reich Parliament which was approved by the Reich President, who was also the Commander in Chief of the Armed Forces. Field Marshal von Mackensen, as the chairman of the Schlieffen Association, to which retired and active General Staff officers belonged, stated quite formally that von Schleicher and his associate, von Bredow, had fallen on the field of honor; this criticism of Hitler's actions in Mackensen's speech was warmly welcomed by the entire army.

Even though the army was not friendly toward the Jews, the anti-Jewish policy and the methods employed were generally regarded as undignified for the German nation. Streicher and his newspaper the, "Stuermer", were despised. The army tried to protect all those in its ranks who fell under the anti-Jewish laws because of their descent or marriage. The results were, however, only very meager.

At first the army believed the benevolent policy toward the churches was meant sincerely, but we soon learned better. The Party tried to change the attitude of the army by efforts which included a speech Goering delivered in 1938, to his senior officers; these efforts remained unsuccessful.

The fact that concentration camps existed was known. Hardly anything, however, was known about their inmates and about the treatment they received. From time to time, officers who participated in training courses were conducted through the camps in Oranienburg and Dachau. They saw only few political prisoners, but, for the most part, common criminals. The living conditions were beyond reproach from a hygienic point of view and in no way repulsive. All prisoners who were released from concentration camps were sworn to secrecy and did not dare speak freely; the others who were familiar with the true conditions did not speak about them either. The government was completely successful in

its policy of keeping the general public and also the army—especially during the war, during front-line service—totally uninformed about the number of concentration camps, the conditions prevailing therein, and the number of prisoners.

When the SA was stripped of its power, the SS-gained in influence. The army was opposed to the latter's ambition to bear arms. Their hostile attitude to the church and their unlawful methods were viewed with particular alarm. Until the outbreak of the war, the *Waffen SS* consisted of only a very few units.

On the whole, relations between the army and the Party were always cool. The personal life of Party leaders, the propaganda methods, and the glorification of the Fuehrer as the greatest German were in no way to be reconciled with the traditional attitude of the army.

III. *Rearmament 1933-1938*

1. *Organization*—Soon after 30 January 1933, Hitler made it known that he intended to restore Germany's independence in the field of armament. In 1933 and 1934, preparatory measures were taken to enlarge the army to 21 divisions, to found a substitute military organization, to build up an armaments industry, and to begin producing modern weapons. The organization of the air force was in the hands of the Minister of Aviation, Goering.

In 1935, universal military training was introduced, limited at first to one year and later extended to two. The High Command of the Army was especially intent upon preventing a hasty construction of the army. The officers of the High Command had weathered all experiences of the World War. They were all under the influence of what Bismarck has called, "*le cauchemar des coalitions*". They knew that Germany was not equal to a war against East and West and that a war of aggression must necessarily lead to the dreaded war on two fronts. All their efforts were directed to create an army for the defense of the German frontiers, an army which in their opinion could not be completely activated before 1942.

It was this attitude which earned for the General Staff the reproach of weakness or even sabotage from such people as Goering, Himmler, Ley, Kube, and other leading Party officials. Hitler never extended his complete confidence to the General Staff or to the generals.

The frontier patrols were abolished in 1936. In their place, in case of war, 21 home defense divisions were provided which had the character of a militia. The preparations for calling up reserves made slow progress. The spring of 1938, proved that a well-ordered mobilization could not yet be carried out.

2. *Land fortifications*—The fortifications in the East were strengthened in particular by a fortified zone on the Oder and the Warthe for the protection of Berlin. In the West only small installations were begun until 1936, when it was decided that a line of fortifications similar to the Maginot Line should be undertaken for completion in 1945. In 1938, however, Hitler decided to expedite its construction. He took this task out of the hands of the military authorities and turned it over to the, "Organization Todt." But even in 1939, the West Wall had only a limited defensive value.

3. *Training*—The training of troops was seriously impaired by the scarcity of noncommissioned officers and by the fact that many officers were transferred to the air force. Former officers who were now returning to the armed forces had frequently attained an age which made them poorly suited for permanent service.

4. *The General Staff*—In 1935, the General Staff was reorganized under General Beck. It was subordinate to the Commander in Chief of the Army and confined to purely military tasks. Political questions were handled only by the Minister of War, who was, at the same time, Commander in Chief of the Armed Forces. During General Beck's tour of duty as Chief of the General Staff from 1935 to 1938, he was received by Hitler only twice and was admitted only rarely to report to the Minister of War.

General Beck was responsible for the training of officers for the General Staff. The trips made by the General Staff were the most important part of this training. They dealt with the defense against attacks from the East or West or against simultaneous attacks from both directions. In 1938, no trip was undertaken, and in its place a written problem was assigned. The subject to be investigated was the question of whether in case of war with Czechoslovakia and France, it would be possible to defeat Czechoslovakia before France could come to her aid. In his concluding conference, General Beck emphatically impressed upon his audience the opinion that Germany would not be in a position to deal with such a situation from a military point of view. He, like the General Staff, was trying, in addition, to warn the officers of the army against harboring any delusions of grandeur.

The General Staff of any country has the duty to prepare the deployment of its forces in the event of war. Up to and including 1935, no preparation of any kind for the deployment of the German Army had taken place. For the first time a deployment was worked out for the autumn of 1935; it provided for the concentration of German forces to protect western Germany and was designated, "Aufmarsch Rot" [deployment Red]. For this purpose, a total of three weak [numerically] armies was contemplated. An-

other weak army and a military commander in Silesia were to cover the rear against Poland. One army command, with the remnants of the army, formed the reserve for the Commander in Chief of the Army.

During the years 1937 and 1938, the possibility of the employment of force by France and Czechoslovakia against Germany gained importance. The trips of the General Staff showed that Germany could not successfully engage in defensive warfare. It seemed that the only possibility was first to defeat the weaker opponent, so that all forces would then be available for action against the stronger opponent. Accordingly, in the autumn of 1937, deployment, "Green" was worked out which provided for the concentration of four armies and one independent army corps against Czechoslovakia. The remaining forces, consisting of three weak armies, were to cover the western frontier. The frontier against Poland was secured by another weak army under the military commander of Silesia.

These deployment directives were issued, however, only to army group headquarters. It was forbidden to pass them on to the next lower command, and so they never reached the troops.

5. *The dismissal of General von Fritsch*—Von Blomberg was Minister of War, and Commander in Chief of the Armed Forces (i.e., of the army, of the navy, and of the air forces) at the same time. It was generally felt in the army that he did not share the points of view of the OKH in many important matters or that he was not able to present his point of view with sufficient emphasis. The army believed, furthermore, that the influence of the OKH upon over-all operations should be decisive, especially during war time. In any war Germany might be forced to wage, the decision would be resolved on land. In addition, the OKH rejected the internationally known theories of General Douhet about operational war in the air. The OKH was of the opinion that it would have to be the function of the air force to furnish tactical support for army operations. Therefore, the OKH endeavored to combine within its own competency the leadership during wartime of the army and of the armed forces.

Out of these differences of opinion frequent difficulties arose between the OKH and the Commander in Chief of the Armed Forces and his staff. They were finally, albeit somewhat unexpectedly, solved when Blomberg resigned—for reasons of a purely personal nature—and when Hitler simultaneously decided to dismiss the Commander in Chief of the Ground Forces, General von Fritsch, on 4 February 1938. Together with him the Chief of the Army Personnel Office and, a little later, also the Chief of the General Staff, General Beck, were dismissed.

There were unsavory intrigues connected with General von Fritsch's dismissal which emanated from the Gestapo and the SS. It was frequently said that the generals of the army should have protested against that incident at the time and should have taken over the government. If at all possible, in view of Hitler's extreme popularity, this could only have been done under the leadership of von Fritsch himself. General von Fritsch did not see his way clear to decide upon this course. It was too far removed from the traditions of the army in which he had grown up. On the contrary, he himself became the tragic victim of these traditions.

* * * * *

[Signed] WALTHER V. BRAUCHITSCH
Field Marshal; last position: Commander in Chief of the Army
(up to 19 December 1941)

[Signed] ERICH V. MANSTEIN
Field Marshal; last position: Commander in Chief of Army Group
South (up to 31 March 1944)

[Signed] FRANZ HALDER
General; last position: Chief of [the General] Staff of the Army
(up to 24 September 1942)

[Signed] WALTER WARLIMONT
Lieutenant General of Artillery; last position: Deputy Chief of
the Armed Forces Operations Staff (up to 6 September 1944)

[Signed] SIEGFRIED WESTPHAL
Lieutenant General of Cavalry; last position: Chief of Staff of
the Commander in Chief West (up to 7 May 1945)

EXTRACT FROM THE TESTIMONY OF DEFENDANT WARLIMONT,
CONCERNING THE JOINT STATEMENT OF FIVE GERMAN
GENERALS ON THE DEVELOPMENT OF THE GERMAN
ARMED FORCES AFTER THE FIRST WORLD WAR*

DIRECT EXAMINATION

* * * * *

DR. LEVERKUEHN (counsel for the defendant Warlimont): I will now show you one more document. It doesn't belong to any particular subject, and it is not contained in my list. It is Prosecution Exhibit 1451, Document 3798-PS. This very extensive document is the one which has been mentioned quite frequently in the trial

* Complete testimony is recorded in mimeographed transcript, 21-25, 28-30 June; 1-2 July 1948; pp. 6812-7103.

as the statement of the five generals. You signed this document together with Field Marshal von Brauchitsch, Field Marshal von Manstein, General Halder, and General Westphal. How did this document originate?

DEFENDANT WARLIMONT: I came to the Nuernberg jail for the first time on 8 October 1945. A few days later I was taken into an interrogation room and there I was received by Brigadier General Donovan who was at that time Associate Chief of Counsel. I knew General Donovan from before the war. He greeted me as an officer and a comrade. He asked me about various events which even today form the subject of this trial, and at the conclusion of this first conversation he asked me to be prepared to testify before the IMT about the relationship of the Wehrmacht to the Third Reich. He described to me what the importance of such a statement by me could have; I then asked for a certain time to think it over. On one of the following days I told him that I personally was not in a position to make such a statement alone because, first of all, I was not able to survey all the most important events of the war, and, in addition, according to my previous official positions and also from the point of view of the respect which I enjoyed in the Wehrmacht, I did not feel myself called upon to testify in the name of the Wehrmacht before this Tribunal. As a result I suggested to him this statement should be set down as a written statement and should be compiled by those high-ranking officers who had also arrived in Nuernberg jail in the meantime, and I would then act as an assistant to these generals and would do everything possible to help carry out their wishes. I gave him the names of the officers set down here, principally Brauchitsch and Halder, and then, Manstein. General Donovan agreed with this. Then we were given the possibility to work in a room in this building for about two weeks in order to compile this statement.

Q. And what was supposed to be the main subject of this statement?

A. The main subject was to be the relationship of the Wehrmacht to the Third Reich.

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4. TESTIMONY OF DEFENDANTS AND DEFENSE WITNESSES

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS FRANZ HALDER*

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948, pp. 1817-1864; 1867-2125.

DIRECT EXAMINATION

DR. LATERNSEER (counsel for the defendant von Leeb) : General, could you take the headphones off? Please state your full name to the Tribunal.

WITNESS HALDER: Franz Halder.

Q. Will you please spell your surname?

A. H-A-L-D-E-R.

Q. General, after the question has been put, please make a short pause. What was your last rank?

A. General.

Q. When were you born?

A. On 30 June 1884.

Q. Please state to the Tribunal the most important positions which you held since 1933.

A. In 1933 I was chief of staff in the Military District Command VI. In 1934 I became divisional commander. In 1936, I took over the direction of the maneuver staff for the armed forces' maneuvers. In October 1937, I became Oberquartiermeister II in the OKH. In spring 1938, I became Oberquartiermeister I, and on the first of September 1938, I became Chief of the General Staff of the Army.

Q. Until when were you Chief of the General Staff of the Army?

A. Until 24 September 1942.

Q. Who was your predecessor as Chief of the General Staff?

A. My predecessor was General Beck.

Q. And what was his end?

A. Beck lost his life on 20 July 1944.

Q. Previously had he been removed from his office?

A. In 1938.

Q. What was the reason?

A. The reason was resistance to Hitler.

Q. Then who was the predecessor of General Beck?

A. General Adam.

Q. What was the end of his official activity as Chief of the General Staff?

A. He was transferred to the troops.

Q. Do you know why? We are talking about Adam.

A. I don't remember exactly. I assume that it was a question of seniority. Then later on as a Troop Commander Adam left the service.

Q. And why did he leave then?

A. Because of his resistance to Hitler.

Q. Then who was your successor as Chief of the General Staff?

A. Later General Zeitzler.

Q. And why did he leave the office of Chief of General Staff?

A. He was removed by Hitler because of the disagreements between the two.

Q. And how did he leave?

A. In the same way as I left, in a disgraceful manner without cause or notice being given.

Q. And why did you leave your position as Chief of General Staff?

A. Because of my disagreements with Hitler.

Q. And what were these disagreements about?

A. These disagreements related to the methods of leadership in the province of operational leadership, which was specifically entrusted to me. Further, because the methods of leadership instead of being based on confidence and trust on which they had formerly rested were based on terror and threats. And further, by the fact that by senseless threats—

Q. You must speak a little bit slower, otherwise, the translation doesn't have time to get through. Would you please repeat the last sentence because the interpreter wasn't keeping up with you.

A. The disagreements referred to the fact that by senseless improvizations the organization of the army was increasingly destroyed, and these disagreements further were due to the fact that it was impossible for agreements to be reached upon long-range plans and, last but not least, the disagreements rested on the ideological opposition.

Q. General, did these disagreements have any repercussion for you later on?

A. The effect they had for me was that at the moment when I left I came under the supervision of the Gestapo, and later on I was arrested.

Q. When were you arrested?

A. On 21 July 1944.

Q. Why were you arrested?

A. I was never given a reason.

MR. MCHANEY: If it please the Tribunal, I object to the last question as being completely immaterial. We have been very patient. Now we have gone back over Zeitzler, Adam, Halder, and several others, I have forgotten. None of them were on trial here. I object to the line of questioning.

DR. LATERNSEER: Your Honor, I really think I must say something about this. Please allow me to make a statement. I will be quite brief.

PRESIDING JUDGE YOUNG: Just a minute. You may go into this preliminary history within reasonable limits. Go ahead. Let's confine it within reasonable limits.

DR. LATERNSEER: Why were you arrested?

WITNESS HALDER: I was never given a reason.

Q. Were any particular charges made against you?

A. In the interrogations which followed, I was charged with high treason.

Q. Did proceedings take place against you?

A. No.

Q. Where were you under arrest?

A. First of all in Dachau, then in Ravensbrueck, and then in the prison of the Reich Security Main Office, then in Flossenbuerg, then again in Dachau, and finally together with others I was deported in order to be killed.

Q. Well, what sort of camps were those?

A. They were concentration camps.

Q. And how long were you in them?

A. Altogether 9 months.

Q. What happened to your family?

A. Shortly after my arrest, my wife was arrested.

Q. And your children, your daughter?

A. My eldest daughter was taken away and put into prison with her four children, all minors.

Q. And then how did your arrest end?

A. In the Dolomites. When the American troops marched in, they took over the camp.

Q. And were you made a prisoner of war?

A. Yes.

Q. When were you released?

A. On 30 June, last year.

Q. Last year—that is, 1947?

A. Yes. That is right, 1947.

Q. General, there are a number of questions about the organization of the Wehrmacht. All questions which I am going to put to you, of course, refer only to the period of time of your service. Since 1938, who was the head of the armed forces?

A. Since 1938, the head of the armed forces was Hitler.

Q. What agency was his military medium?

A. The OKW.

Q. And what special functions did the OKW have?

A. The OKW had ministerial functions. It had to represent the demands and interests of the Wehrmacht towards other agencies and spheres. In the purely military sphere the OKW had the tasks of a headquarters agency concerning operational matters.

Q. Many OKW orders have been submitted during this trial. As whose orders are these OKW orders to be regarded?

A. OKW orders are orders issued on the basis of Hitler's command authority.

Q. They are Hitler orders then, are they?

A. Yes.

Q. Did the OKW itself, that is, the agency itself have any command authority?

A. No.

Q. In other words, the OKW was merely the military working staff for Hitler?

A. Yes.

Q. Which military agencies were immediately subordinated to Hitler's orders?

A. Of the military agencies the following were under Hitler's immediate authority: the High Command of the three branches of the Wehrmacht, army, air force, and navy.

* * * * *

Q. General, this morning you testified* that for nine months you were Hitler's Chief of the General Staff, when he was Commander in Chief of the Army?

A. Yes.

Q. What observations could you make then about Hitler's attitude towards generals?

A. Hitler's attitude toward the leading generals, if I might put it that way, was signified by a definite distrust which, concerning some persons, could even be classified as a hostile attitude.

Q. Now, what were Hitler's reasons for such an attitude?

A. These reasons might well arise from the contrasting opinions which Hitler felt existed between leading circles of the army and himself, and which he was in no position to eliminate merely through official channels of command. These contrasts are, of course, of a varied kind. They are rooted in the contrast which existed between the strict conception of a soldier of the old school, who grew up as a responsible and restrained man, and on the other hand, a system of unrestraint, which recognized as its only directive the purpose at hand. These contrasts played a part in the question of church problems and religious concepts. I believe, however, that above all, one thing will have to be taken into consideration. One can only understand Hitler if one interprets him as a categorical revolutionary.

Q. The latter part was not understood by the interpreter.

A. A revolutionary in all fields. On repeated occasions I heard from him that everything which he found when he entered upon his military career, was well worth eliminating and overthrowing. This revolutionary spirit which wanted to overthrow everything which existed, was contrasted by the conviction of a conservative soldier of the old school. Every army in itself is conservative, and above all, the German Army.

Q. General, now what was Hitler's attitude toward the General Staff?

A. The attitude was one of complete rejection.

Q. Why?

A. He reproached us, as he said, for that damned matter-of-factness. We were not enthusiastic enough. We were too sober. We were not guided by unlimited fantasy, but instead, we calcu-

* The testimony was to the effect that Hitler took over the position of Commander in Chief of the Army (i.e., of the ground forces) from von Brauchitsch as of 19 December 1941. Witness Halder remained chief of the General Staff of the Army (i.e., of the ground forces) until 24 September 1942.

lated our actions to be consistent with our responsibility towards the troops. From former times he had a strong antipathy toward the General Staff, which was tied up with the persons of Schleicher, whom he considered to be a representative of the General Staff, Hammerstein, and Beck. He made abusive comments on those people and on the spirit represented by them; these were routine remarks made during the time when I saw him almost daily.

Q. Now let us look at the picture from a different angle. What was the attitude of the military leaders towards national socialism? I mean the highest levels.

A. This attitude was not a unified one. In retrospect I can see a small group of people who were enthusiastic and agreed with Hitler and his ideas. Then I see another group, a larger one than the previously mentioned one, which from the very beginning until the very end, was in stubborn and bitter opposition to Hitler, and the larger center group which first of all, because of its conservative attitude, was reserved, and partly quite distrustful towards national socialism, but which during later developments saw itself faced with an accomplished fact about which nothing could be done.

Q. You said a small group. Now which generals showed up as National Socialist generals?

A. I would like to restrict myself to a few examples. For instance Blomberg, Keitel, Reichenau, Jodl; then also Rommel.

Q. Let me interrupt. How did Rommel end?

A. As is well known, Rommel was eventually killed through Hitler's actions.

Q. Then you mentioned General von Reichenau. What was he to become in the army? What was his position to be?

A. When General Fritsch left his office he was being considered as a candidate for his successor.

Q. As Commander in Chief of the Army?

A. Yes.

Q. Why did Reichenau not become Commander in Chief of the Army?

A. I cannot answer that with any certainty. But from Beck, I heard, that he and Rundstedt together, had gone to see Hitler in order to tell him that due to Reichenau's servility towards national socialism they did not think it possible for the leading levels of the army to trust him as much as would be necessary in order

for him to maintain the position of the Commander in Chief. But I must emphasize that I myself was not present during this conversation.

Q. From whom did you hear about it?

A. From Beck.

Q. Now what was the attitude and opinion of the highest military leaders, at the time of Hindenburg's death, towards national socialism? The prosecution contends that even at that time there was a considerable favor in the ranks of the leading generals towards Hitler. Is that correct?

A. As long as Hindenburg was the head of State many senior comrades referred their misgivings of national socialism in the belief that Hindenburg would have a closer insight into these matters, and what he approved of could also be approved of by the generals. After Hindenburg died they were no longer bound to any loyalty to him and then criticism of national socialism and above all of its methods increased.

Q. Then the contrary of what was said in the indictment is actually correct?

A. Well, that is my personal impression of those days.

Q. Very well, you just mentioned methods of national socialism. Now, which were the principles of national socialism that were generally rejected within the ranks of the generals?

A. Generally rejected were the racial idea and its consequences, the struggle against church and religion, the increasing indoctrination of the State with purely Party personalities who lacked the expert knowledge for their positions, and last, not least, I may well say the noisy and unchivalrous methods with which the Party acted publicly during the time of struggle before it came to power.

Q. And what was the attitude of the generals, and I always mean the average, towards the political leaders, the representatives of the Party, the Gau [district] leaders, and people of that sort.

A. Only a small fraction of the commanders of higher troop commands had any business with them at all, for instance the commanders of the military district. As a whole the attitude was a reserved one. Occasionally it was almost hostile.

Q. In your diary, if Your Honors please, I am now referring to Document NOKW-3140, Prosecution Exhibit 1359 in document book 19. In your diary, General, there is a note under date of 3 October 1939, and I quote: "Field Mail: Generals agitate for war."

I shall put the question in a moment. If Your Honors please, I should like to draw the attention of the Tribunal to the following: It so happened that I checked the English text and the word, "Feldpost", which is, "field mail", is omitted so that in the version of the document which is available to the Tribunal it only says, "Generals agitate for war." The preceding word, "Feldpost", is missing. I am now going to show the possibility of a distortion of the meaning in the English text. I was very surprised that this word was missing. Now, General, with this notation: "Field Mail: Generals agitate for war," what did you want to express in this remark?

A. May I anticipate the following. This so-called diary is by no means a diary but merely a large note book. In it I made notes of those items which it seemed necessary to put down for future action and of which I heard during official conferences. One department of the General Staff had to inform me from time to time of the result of the current spot checks of field mail. Such spot checks are known in all armies and they are important because they allow an insight into the thinking of the soldier at the front. During such a report, a number of cases and instances were mentioned which showed that the soldiers coming to the West from the East that, is, after the Polish campaign, did not feel any particular need to start a new fight in the West. The soldiers who had fought in the West up to that time and who consisted of divisions of older age groups felt that they had done quite a lot up to then, and they were also not exaggeratedly keen on a large scale attack in the West. These voices were expressed in mail from the front and on a very few occasions, I believe there were two instances, they were reported to me. The trend of thought goes on: "but the Generals agitate for war," that is, for an attack in the West; they want to go on waging war; we have had enough of it.

Q. Now the words you put down in the diary, is that your personal opinion or is it the opinion of the soldiers which was reported to you and which was contained in the mail from the front?

A. Those are the ideas of the soldiers at the front which seemed to me to be important enough to be reported to the Commander in Chief of the Army. That is why I put them in.

Q. The words "field mail" were omitted in the document book and is a considerable distortion of the sense?

A. Yes. The whole idea of the mail from the front is what I referred to in the diary.

Q. What was the real attitude of the highest military leaders concerning the continuance of the war?

A. Among the group which could be considered as the leading level, I did not know one single comrade who advocated the war or who agitated for war. Hitler himself severely criticized this fact and I heard of such criticism from Hitler during addresses, and it was also voiced in the closest circles where once it was said: "What kind of generals are those who have to be driven to war, rather than having to be stopped?"

Q. General, the prosecution contends that the generals had conspired for a common action in aggressive war. Is there anything you can tell us in this connection, whether that was so or not.

A. I know of nothing of the kind.

Q. And in what respect did the generals gather together for common action?

A. In the opposite direction, i.e., in the direction of resistance. A congregation into such group for a common aim is only known to me in connection with the resistance movement.

Q. Will you please in brief outline tell us, who were members of the resistance movement, and what were the aims of the movement?

A. It is hardly possible to do that with just a few words but I will try. The existing opposition against the National Socialist system and the realization of the danger connected with this system had at an early date drawn together a certain circle of officers, and made them ideological opposers. That was as early as Hammerstein's time who himself was the representative of such an idea as chief of the OKH. These ideas and these tendencies developed in the following years, became increasingly stronger, and were concentrated in the OKH, mainly in the General Staff. The names of Fritsch and Beck—

Q. Will you please always give the position of the men involved because we cannot always anticipate that that is known.

A. Generals Beck and Fritsch are perhaps the best known persons around whom this ideological circle gathered. There was the possibility of arriving at an action from this ideological community during that period of time, the Commander in Chief of the Army was Freiherr von Fritsch and he was eliminated through unscrupulous means and intrigues. Then, the waves of excitement and indignation rose high.

Q. Within the ranks of the military leaders?

A. Yes, within the ranks of the military leaders, and, I might perhaps say that the men in the circle of friends around Fritsch would at that time have gladly realized the transfer from an ideo-

logical to a factual opposition if there had been decisive leaders within the ranks of the generals. Unfortunately these were missing. The oppositional group remained gathered around Beck as the center. But at that time Beck refused, in spite of strong insistence, to choose paths other than evolutionary ones. He rejected the idea of revolutionary action.

Q. What is the period of time you are discussing now, approximately what year?

A. The first part of 1938.

Q. Now will you please continue.

A. The method of fighting which was used by Beck, that is, memoranda with emphasis of contrasting opinions, led to his dismissal.

Q. General you just mentioned a memorandum. What kind of memorandum was that?

A. In summer 1938, Beck, on the basis of military studies of an operational winter maneuver, set forth his ideas concerning the military-political situation of Germany, with the result that every military conflict originating in Germany would lead to a new world war of an incalculable duration, a war which Germany could not cope with under any circumstances. Such a policy would, therefore, lead to Germany's ruin.

Q. Just one question, General. When General Beck compiled this memorandum what was his position at the time?

A. At that time Beck was Chief of the General Staff of the Army.

Q. Now, will you please continue?

A. I should like to stress that this memorandum was read by the Commander in Chief of the Army, then General von Brauchitsch, to a specially called gathering of all troop commanders and military district commanders.

Q. I don't think the interpretation was right in saying, "troop commanders". It should be: commanders in chief of the groups. I am afraid that was the fault of the expression used by the witness. Perhaps you would put it a bit clearer so it can be translated properly. Who was informed of this memorandum? Who was it read to?

A. It was read to a gathering of the commanding generals and the commanders in chief of the army groups, that is, the actual bearers of command authority within the army. The thoughts expressed in the memorandum were unanimously approved of by

them to the fullest extent. The memorandum was then submitted to Hitler by General von Brauchitsch.

Q. And what was the consequence for Beck?

A. The result was that Hitler demanded that Beck resign from his office, which was done. He, himself, put in his resignation.

Q. Perhaps you would like to continue now. I had put a question to you which was not completely answered yet. In what respect did the generals gather together for common action?

A. The Beck development proved that one could not get at Hitler with such methods. At that time we found ourselves in a very tense situation. Hitler had issued orders to the effect that by the end of September the army was to be prepared so that, if necessary, the Sudetenland could be invaded with armed force.

Q. That was when?

A. September.

Q. September what year?

A. 1938. If that was to be prevented, action had to be taken. With methods of memoranda and resignation, nothing could be achieved. All that remained was the possibility of force. Thus, the resistance group, which at that time existed and became stronger in the OKH, was forced necessarily on the path of a military revolt. After Beck had retired, the Commander in Chief of the Army had asked me whether I wanted to become his successor. After a short time for consideration, during which I discussed matters with Beck, I answered: "If I take over this office, I am only doing it in order to exploit all possibilities of that position for a fight against Hitler and his regime." The Commander in Chief shook my hand, and that is how I became his chief of staff. The first task was the preparation of a step which we as soldiers had never thought of during our whole life, but necessity forced us to this step. I believe it is known that what von Witzleben, Brockdorff, and Helldorf—

Q. Spell the names, please.

A. W-i-t-z-l-e-b-e-n, von B-r-o-c-k-d-o-r-f-f, and von H-e-l-l-d-o-r-f. I continue. I believe that what these men prepared, took place with my approval and cooperation, and I believe it is generally known today that this was so. The actual carrying out of these plans was prevented at the twelfth hour, after I had already given the order to start. It was prevented through the news of the intervening of Chamberlain and Daladier in Munich, that is, of the anticipated conference in Munich.

Q. General, what had been instigated up to that time; what had been prepared? You said you had already given the order to start.

A. The whole plan and all information had been prepared.

Q. I should like to ask you to make it quite clear; of course, you know all about it, but the Court doesn't.

A. Under von Witzleben's guidance, certain forces of the Potsdam garrison and certain forces within the Berlin garrison, and the whole of the Berlin police under Helldorf had been assigned for the occupation of the Reich agencies in charge of National Socialists, the post officer, radio transmitters, etc. For the occupation of the Reich Chancellory, a special Panzer division was held in readiness.

Q. Where was it held in readiness—this Panzer division?

A. That was located about two day's march away from Berlin.

Q. Well, in what direction?

A. Hof.

Q. And why were these intentions not carried out at the time?

A. The purpose of this action at the time was to prevent a war, which according to Hitler's orders, was irrevocably decided on; all other means had proved of no avail. The information that British and French responsible statesmen had arrived in Munich offered new possibilities of a peaceful agreement, and this peaceful development took place in due course. With a result which was felt in our resistance group, matters developed further. Adolf Hitler's prestige rose to a large degree because of this success without the spilling of blood; his esteem rose especially in military circles. Military circles realized the enormity of this success, namely, the military-political elimination of force.

Q. General, I believe that wasn't properly understood by the interpreter. What was the last sentence?

A. I said the success had a great influence, particularly on those who realized the military importance of the elimination of Czechoslovakia, the loss of boundary territories, fortifications, etc.

Q. What happened afterwards in the resistance movement?

A. There was a relapse which was quite considerably felt, during which many people dissociated themselves from the idea.

Q. What did General von Witzleben tell you, for instance, after he had heard of the Munich agreement?

A. I don't remember that very clearly. Von Witzleben and I realized that we hadn't succeeded this time. Well, there were

many, but many is putting it too much,—there were a number of people who said, “No, the statesman knows better than you revolutionaries; he knows how to handle the situation, you keep your hands off.”

Q. What further development did that movement take within the military leadership?

A. During the time after the Sudetenland incident, there were a number of changes in personnel. The Berlin circle which had worked together before was now torn apart; therefore, in the period of time before the attack on Poland, during which one realized not the certainty but the danger of a war, during this period of time there was no possibility of forming a similar movement or to prepare a similar action. Therefore, it was all the more important to draw together the forces of resistance after the Polish campaign.

Q. That was when?

A. In 1939; the purpose was to prevent the outbreak of a fight in the West.

Q. What was done in this direction?

A. During that time, a number of contacts were taken up and a number of conferences took place, with civilian groups also, in order to arrive at some common action. The situation, however, had changed essentially. In 1938, if it had been necessary, a temporary unrest in the country could have been accepted because after all, that was peacetime, and we had our well-proven commanders everywhere in the country, then, in 1939 and 1940 the idea of the attempt of a forcible solution against the system in power was inseparably tied up with the danger of civil war, in the face of the enemy at the frontiers of the country.

DR. LATERNER: General, we stopped at the period after the end of the Polish campaign. You had just started to describe the attempts at preventing the Western Campaign. Please continue.

WITNESS HALDER: The attempts to prevent the outbreak of fighting in the West ran on a double track. First of all, in the official struggle of the Commander in Chief of the Army against the Commander in Chief of the Armed Forces with suggestions, reports, memoranda, etc. The end of this was the well-known conference on 23 November 1939. The end result was negative. They had not succeeded in bringing about a change of the orders from the highest level; hence, all the more important, therefore, became the preparations made on the second track. Here similar preparations were made, but they were only theoretical, as in 1938. As some-

thing about the preparations was evidently known to the highest quarters, for the moment they had to be stopped. Then we went over to the track of the commanders in chief of the army groups and of the armies and tried to influence them to the effect, that they made a united stand behind the commander in chief in order to refuse the execution of the plans. After a number of trips and conferences this period, which was characterized by these visits and conferences, again had, on the whole, a negative result. I understand it today much better than I did then. The German Army had at mobilization the whole National Socialist youth in its ranks. The Reserve Officer Corps, as far as they were still young, had already gone into the Party. One had to count on the most serious danger that the attempt to use the army as an instrument of revolution, would lead to the breaking of this instrument—and this in the face of an enemy ready for battle. Those were the most essential reasons why a demand for action in this period did not succeed. In the meantime came Norway, France—Hitler came to the climax of his power, and it would have been lunacy to think that the methods of 1938 would still work at this time. The resistance movement went two other ways, the attempt to create a broad political basis, which up till then had not existed; and another way which was repeatedly tried anew was the preparations for an assassination. I would like to add that the last way, the assassination, was refused by me. But there remained the young comrades with strong hearts. For these men there remained finally no other way, and so the idea of military resistance led to a number of unsuccessful attempts on Hitler's life, until 20 July 1944. The people who fell there for Germany were our best young General Staff officers.

Q. General, how then did you come to this action against the government?

A. I came to it by the special duties which I thought had been placed upon me by my office as an exponent of the German General Staff.

Q. At that time did you also obtain the agreement of other generals,—did you assume this agreement?

A. A considerable number, I knew without talking to them, could be relied upon unconditionally when the moment came, especially those at the top age level.

Q. And are you also thinking about General Leeb in this respect?

A. Yes, very particularly. In 1938, in my mind, he had played a particular part because his troops were in a position to dominate southern Germany in case of unrest, and also in 1939–40.

Q. We will come back to that in another matter.

General, practically, the prosecution charges the defendants with not having acted similarly. What possibilities were in existence for such a similar action by a commander at the front?

A. A commander at the front could, at the most, use a local revolt; for a large-scale action, the OKH had to be called on, but the basis was missing to see things as a whole, to determine the time, etc.

Q. And now I would like to turn back again to the organization of the armed forces. What was the next subordinate office to the OKH?

A. Directly under the OKH, in peace time, were the group commands, and in war time, the army group commands.

Q. Did the commander in chief of an army group have an opportunity to comment on the plans and intentions of Hitler? By this I mean about, "whether", and about, "how"?

A. No. I never experienced a case of that kind.

Q. Well, was there any opportunity for the commander in chief of an army group to report orally to Hitler, in person?

A. The commanders in chief of the army groups, before large-scale operations, were, as a rule, ordered to report orally in order that the execution of the assignment given to them could be described. In addition I remember isolated cases in which, during the war, Hitler, as Commander in Chief of the Armed Forces, flew to the command posts of army groups for short discussions, which always had some urgent purpose.

Q. On such occasions, could Hitler's plans and intentions be influenced in any way?

A. As I said, the commanders in chief of the army groups reported their actions within the main framework; comments on the over-all situation were never made or discussed.

Q. What, then, were the reasons for this impossibility of influence?

A. Well, they had no basis for it; they only had their own assignments.

Q. And what about the political influence of a commander in chief of an army group?

A. Well, that didn't come into the question at all.

Q. Do you know of one case in which the Commander in Chief of the Army himself had an opportunity to make any comment before a political decision?

A. I don't know of one single case. I must stress that I was not present at all these conferences, but I know that later on, Field Marshal von Brauchitsch repeatedly spoke to me and repeatedly complained to me, that he did not have the possibility of having any effect on decisions, the execution of which cost the lives of his soldiers.

Q. What, then, was the possibility of influence of the generals in important conferences before political events?

A. In large discussions, or in large conferences, Hitler came with a lecture which had already been worked out.

Q. Then, how did the course of these conferences or discussions run?

A. Well, they were extremely one-sided; only one man spoke, and that was Adolf Hitler.

Q. Yes. And was an opportunity given, then, to ask questions or to make objections?

A. At the large meetings, as a rule, during the conference, Hitler expressly stated that he would accept no countersuggestions and no objections. Such large conferences, were only summoned if he was afraid of objections, which, by his personal influence and through his personal lecture, he wanted to abolish; and he did not want any discussion at all.

Q. Could you give examples of such conferences?

A. I can give a large number. The one I can remember most of all is the conference which took place on 23 November 1939, in which Hitler replied to all the counter arguments against an attack in the West, which Brauchitsch had informed him about during the previous week. He summarized all these counterarguments, and, on the charge of cowardice, indecision, decadence of all the leaders, and such like, he rejected them all.

Q. Can you give further examples of conferences of this kind?

A. The conference of 22 August 1939, before the Polish campaign, was of a similar character; and in this connection, perhaps, I might refer to the so-called Commissar Conference, which took place at the end of March 1941, in which Hitler stressed very sharply that he knew exactly that his opinions and the opinions of the military leaders were in contradiction to each other; and he would not even try to convert us or take us away from these ideas, but he ordered and demanded obedience.

* * * * *

Q. Now, a few questions with regard to the rearmament which, according to an assertion of the prosecution was supposed to have

been undertaken for the purpose of serving an aggressive war later on. What was the extent of the German Armed Forces in the 1920's?

A. In the 1920's there were seven infantry and three cavalry divisions.

Q. How could one judge the strength of these forces from a military point of view?

A. As regards the normal tasks of an armed force, to protect the area of sovereignty, it was completely and absolutely insufficient. Taking into account the extension of the frontiers which were geographically not protected, but then also in comparison with the highly-armed neighboring countries.

Q. From which side could a military danger at that time arise or come into the question?

A. Poland could come into the question, which at that time was repeatedly undertaking mobilizations, and the military-political alliance of Czechoslovakia and France could come into the question. Altogether there was a very considerable danger with regard to potential enemies.

Q. And what steps were taken by military circles to eliminate a military conflict during the time after World War I?

A. Disarmament was hoped for and the effectiveness of the League of Nations.

Q. And what happened with disarmament?

A. In spite of long discussions it did not progress at all.

Q. And what were the consequences of this for the strength of the German Armed Forces?

A. We had to try and it actually was tried in a political way to increase the armed forces.

Q. When did the first efforts in this direction take place?

A. Well, I can't say with certainty. I know that it was at the time of Schleicher.

Q. And who backed these efforts?

A. The Reich Government.

Q. Which government was concerned here?

A. The Weimar Government.

Q. When, then, did the further rearmament start?

A. After the so-called seizure of power* the first orders came for the preparation of increasing the army.

Q. And what was the attitude of military circles to this?

A. On principle an extension of the army was, of course, welcomed. With reference to the speed and the extent of the rearmament, the opinions were very divided; the demands made by Hitler met resistance within the OKH.

Q. And why?

A. Because the OKH attached special value to the new generation of the army proceeding regularly and healthily. The increase of the Officer's Corps, the training of the Officer's Corps, the training of all the troops can be made systematically, and regularly, and healthily by slow reconstruction over a long period, and it can be made with very much less value more quickly.

Q. And what was the point of view of the military quarters?

A. They maintained the first point of view.

Q. What was the aim of this military rearmament on the part of the military leaders?

A. At that time I was in Munich as divisional commander, and did not have any insight into the OKH. For the people outside, the important thing was the declaration of the Reich Government, which expressly talked about the fact that with this the equalization with other military powers would be documented and that this extended army—I think I can remember the exact words, "would not be a means of aggression, but only a means of defense and peace."

Q. Toward what was the operational thinking of the General Staff officers directed later on when you as Oberquartiermeister I and Oberquartiermeister II gained insight into this?

A. In the defense of German soil. For many years, until I myself became Chief of Staff, I made trips for the General Staff. As far as they were not purely theoretical case studies, they were always occupied with the defense of German soil.

Q. You mean the General Staff trips?

A. Yes.

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Witness, you succeeded Beck on 1 September

* "Seizure of power"—term commonly used in National Socialist Germany to describe Hitler's appointment as Reich Chancellor on 30 January 1933.

1938, and you have testified that Beck was dismissed because of his well known anti-Nazi attitude; is that right?

WITNESS HALDER: That is correct.

Q. And you served as Chief of the General Staff from 1 September 1938 until September 1942, is that correct?

A. Yes.

Q. Were you reproached by your fellow officers for accepting the position of a man who had been so rudely treated?

A. No. I accepted that position in agreement with Beck himself.

Q. And you did this, as I think you have testified before, to engage in resistance activities against Hitler?

A. Yes.

Q. How long did your resistance continue? Did it continue after you left your position as Chief of the General Staff in September 1942?

A. After I left my military office, I worked actively in various places in the civilian resistance movement.

Q. You mentioned a memorandum by Beck, which, as I understood it, led to his dismissal. Will you tell me precisely what was in this memorandum and who heard the memorandum read, or received a copy of it?

A. The memorandum contained a summary of the results of an operational winter maneuver during which the possibilities of a military conflict on the part of Germany were being tried out. The results of this exercise were that every military conflict originating in Germany would necessarily lead to a world war, which would show a considerable superiority on the part of the opponents of Germany and which would last for an incalculable length of time. For a lengthy war and a war against superiority of that extent, Germany's forces were by no means suitable, as the First World war had already proved. The consequence was a conclusion to avoid every type of policy which would lead to a military conflict for Germany.

Q. And who heard the memorandum read or who received a copy of it or information about it?

A. To the best of my knowledge, only three copies existed of this memorandum, three copies in all. One of these was submitted to Hitler; the second one was in the hands of the Commander in Chief of the Army; the third one was in the hands of Beck. Beck, when he left his office did not give me this third copy, but took it with him.

Q. Well, I understood your testimony to the effect that a rather substantial circle of senior officers were aware of this memorandum of Beck's.

A. The commanders of the army groups and the commanders of the military districts, as well as the commanding generals were informed of this memorandum in a conference especially called for this purpose.

Q. When was that conference called?

A. I cannot recall the date exactly. I believe it was in July.

Q. Do you know whether the defendant Leeb was there?

A. I don't know it for sure but I believe he was.

Q. You will recall if I remind you that Leeb resigned or was dismissed after the Fritsch episode?

A. Now, I beg your pardon, I was mistaken. I remembered him as commander in chief of the group, but Leeb had already left the office. He was not present, because officers who were not in active service at the time were not called to this conference.

Q. Kuechler was there for one?

A. I believe he was. He was at the time commander of Military District I, but I am not quite sure.

Q. Do you remember any of the other defendants being there?

A. No.

Q. This was something of a *cause celebre*, was it not; didn't information about this get around in the General Staff and among the officers?

A. No. The whole matter was treated extremely confidentially, and those departments of the General Staff not concerned with the matter didn't even know anything about the conference taking place.

Q. But this attitude expressed by Beck was what formed the core of the resistance?

A. I didn't quite understand. Will you repeat it?
(The question was repeated by the interpreter.)

A. Yes.

Q. As I understand it, you include the defendant Leeb, as well as substantially all of the rest of the dock as members of this resistance movement, so that we can assume that if they didn't know of the Beck memorandum directly, that they at least shared the attitude expressed in it?

A. To what extent individually those officers who did not participate in the conference knew about the sentiments therein I don't know, but the general tendency, was known to them.

Q. And you say this memorandum was based on winter maneuvers carried out early in 1938?

A. Not a maneuver, an operational study.

Q. Witness, isn't it true that the so-called resistance was based on the timing of the launching of war by Germany, rather than on fundamental objections to the political policies being pursued by Hitler?

A. No. That is not correct.

Q. Let me put it a little differently. Was this resistance directed against the person of Hitler, and were efforts made to have Hitler removed, or was it an opposition to launching a war before you were prepared?

A. Both aspects were involved. There was a resistance against the whole spiritual, ideological tendency of Hitler's system, even during a period of time when there was no suspicion of a war yet. I personally, for instance in 1937, in the summer of that year, had discussions concerning that problem with Fritsch and Beck.

Q. Was Reichenau seriously considered for the post of Commander in Chief of the Army, the Ground Forces?

A. According to what I heard from Beck I have to assume that it was so, namely that he was being considered by Hitler, because Beck and Rundstedt particularly went to Hitler in order to prevent this fact.

Q. And Beck and Rundstedt were successful in preventing it, weren't they?

A. I couldn't quite get it.
(The question was repeated by the interpreter.)

A. Yes. They were successful in preventing it. That is how Beck described it to me.

Q. That was because Reichenau was considered by the senior generals as pro-Nazi?

A. Yes.

Q. I assume you have a high regard for your former superior, Brauchitsch?

A. Yes.

Q. Is it true that Brauchitsch accepted a large sum of money from Hitler to enable himself to disengage himself from his first wife?

DR. LATERNER: I object. That question has nothing to do with any point touched upon by the defense on direct examination, therefore it is not admissible.

MR. MCHANEY: If the Tribunal please, I think—

PRESIDING JUDGE YOUNG: What is the purpose of it?

MR. MCHANEY: I think it is material to the question of showing that Brauchitsch for one, and I think other field marshals, accepted personally large sums of money from Hitler. I think this acceptance of money over and above their salary, their military pay, is of some significance with regard to the question of their personally following Hitler's policies.

PRESIDING JUDGE YOUNG: I think in the light of the testimony that was elicited from the witness, it is admissible. The objection is overruled.

MR. MCHANEY: Do you understand the question, Witness?

A. Later, I heard talk about this matter, after Field Marshal von Brauchitsch took over his post, but I heard about it authentically for the first time in Nuernberg.

* * * * *

Q. Witness, you mentioned a number of generals whom you described as, "Nazi generals", including Keitel, Jodl, Reichenau, and Rommel. These men are all dead. Can you name a living, "Nazi general", as you have used the term?

A. At the moment I cannot name any one with any amount of certainty.

Q. Witness, did you sign an affidavit together with four other high-ranking German officers in which you stated in effect that the Chief of the AWA of the OKW was a Nazi general?*

A. I cannot recall having made a statement in that manner. Could you give me the wording of the statement?

Q. I think perhaps you recall the incident. If you had now rather use your own words I would like to have you do so. What did you—together with four other generals who also signed their name to the affidavit—have to say about Reinecke?

A. He was regarded as being close to Party circles, but the word, "Nazi general", was not used in that connection.

* See Document 3798-PS, Pros. Ex. 1451, reproduced in this section.

Q. Rommel, one of the Nazi generals mentioned by you, was killed on suspicion of having participated in the 20 July plot, was he not?

A. Yes. I am familiar with that fact; I have heard talk of it.

Q. And Fromm who arrested Beck on the day of the plot and let him keep his gun to shoot himself, was also executed later on, on suspicion of having participated in that plot, was he not?

DR. LATERNSEER: I object. I don't know what connection this question has with our direct examination. I see no such connection.

PRESIDING JUDGE YOUNG: Well, it may be connected with it. As far as Beck is concerned the question may be answered.

A. I only know about Fromm, that I was with him in the dungeon prison of the Gestapo in Berlin, and that at a later time he was shot. I don't know any more details because since July 1944 I was robbed of my freedom.

Q. Witness, haven't you heard on good authority that Fromm actually arrested Beck on the day of the plot for Beck's having participated in the plot?

A. All that I heard by way of conversation and I can only confirm it as such, but the fact itself I am not able to confirm.

Q. Do you remember the names of the judges on the People's Court who tried the great majority of these persons who were alleged to have participated in the plot?

A. I recall one name which was in everybody's mouth, Freisler. I do not recall any other names. During that time I saw no newspapers, and I had no other information.

Q. Well, do you know, as a matter of fact from information which you have since received, that the defendant Reinecke was a member of the Peoples' Court which tried some of the persons who were alleged to have participated in the plot?

A. No. I do not know that.

Q. Can you tell us whether Rundstedt was on the honor court which discharged the military participants in the plot so that they could be tried by the People's Court?

DR. LATERNSEER: I object. That again has no connection with our direct examination.

MR. MCHANEY: If the Tribunal please, we have heard testimony for two days on the resistance movement.

PRESIDING JUDGE YOUNG: I understand why this is offered, and the objection is overruled. It goes to the attitude of these generals alleged to be in the resistance movement.

MR. MCHANEY: Did you understand my question?

WITNESS HALDER: Could you please repeat it?

Q. I suggest to you that Rundstedt was on the military honor court which threw the alleged military participants in the plot out of the Wehrmacht so that they could be tried by the People's Court, is that correct?

A. That is how I heard it.

Q. You have testified that Hitler was hostile to the generals and distrusted them, is that right?

A. That is correct.

Q. Why didn't he replace them?

A. I didn't get the question.

Q. Why didn't he replace these men whom he distrusted, and put in other men whom he trusted?

A. Because, at least at the beginning, he did not think that he could forego the expert knowledge of these generals.

Q. How long did that attitude of his continue?

A. Approximately until the end of 1941 and the beginning of 1942.

Q. Who were the three army group commanders who participated in the three major campaigns beginning with Poland and ending with Russia?

A. The later Field Marshal Rundstedt, Field Marshal von Bock, and Field Marshal von Leeb.

Q. They were not changed at all during the periods of these campaigns—the same three field commanders of the army groups?

A. That is right.

* * * * *

Q. Further on the question of the Nazi generals, I would like to hand you Document NOKW-663. It is Prosecution Exhibit 618.* Witness, this document is a cover letter emanating from your staff dated 28 October 1941, attaching a copy of an order previously issued by Reichenau, and it is directed in this cover letter that it is transmitted with the request to issue, if not already done so, orders to the same effect. This letter is directed to all army groups, armies, Panzer groups, and commanders of the rear areas of the army groups in the East. Is that correct, Witness?

* Document reproduced in part in section VII B 4 below. A complete translation of the text of the Reichenau Order appears in NOKW-3411, Pros. Rebuttal Ex. 14, in the same section.

A. That is correct.

Q. Would you describe this Reichenau order which was sent out by your staff to all the units in the East as being a Nazi order on subscribing to the racial principles of the Nazi Party?

A. The order of Reichenau, I would describe in this matter: it contained decided National Socialist ideas.

Q. I would like to point out to you the second paragraph of this Reichenau order, in which the following is said: "Therefore, the soldier must have full understanding for the necessity of a severe but just revenge on subhuman Jewry. The army has to aim at another purpose, that is, the annihilation of revolts in the hinterland, which as experience proves, have always been caused by Jews." Your staff directed the units in the East to publish similar orders to their troops, didn't it, Witness?

A. No. This is a matter of executive power. This matter was dealt with in the department war administration, as the heading shows. This department functioned as an organ dealing with questions of executive power. The bearer of executive power was the Commander in Chief, Field Marshal von Brauchitsch, and this department was at his disposal for these purposes. This matter was not channeled via my department. Later on I heard about it, because I was asked about it from outsiders.

Q. Doesn't the file notation here say General Staff of the Army, Generalquartiermeister?

A. Yes. Because the Department War Administration belonged organizationally to this department of the General Staff. If I may put it this way, that was the visiting card of the Department Military Administration.

Q. This order could not have gone out without your knowledge, could it?

A. I very much regret it was issued without my knowledge, because the Commander in Chief of the Army, in matters of executive power, dealt directly with two agencies. One was the Generalquartiermeister, the Department Military Administration, and to a certain extent also the General for Special Missions. That is the same as you will find with the army commands, where the bearer of executive power, in such instances, is not bound at all to work in conjunction with his chief of staff, but deals instead with the responsible administrative organs, and can instruct them directly.

Q. Do I understand you to say that you would have vigorously opposed the issuance of this order?

A. No. I only heard of the issuance of this order when it had long since been issued.

Q. My question was would you have opposed, had you known—would you have opposed the issuance of this order?

A. Yes. Of course, because it was not even necessary after Hitler's suggestions to pass Reichenau's order on as a kind of model. There would have been ways of circumventing this.

Q. Brauchitsch issued the order, didn't he?

A. Well, he did issue it, but I am inclined to assume that in view of the current personal oral reports that Brauchitsch submitted to Hitler, this Reichenau order was mentioned as a kind of model, and that Hitler demanded that Brauchitsch distribute it as a model.

Q. Witness, as former Chief of the General Staff, you appreciate the incalculable consequences of the publication of an order like this to millions of German soldiers fighting in the East? You appreciate that, that would have a very devastating effect, don't you?

A. This consideration, I did not primarily—

DR. LATERNSEER: I object. Just a moment, General. I object. This is calling for a conclusion on the part of the witness, and the witness is only to be asked about facts. Beyond that, I do not see what this order has to do with cross-examination, since it was not the subject of direct examination.

PRESIDING JUDGE YOUNG: The objection is overruled. Let him answer it.

MR. MCHANEY: Do you appreciate that the issuance of an order like this to the millions of German troops in Russia would result in disastrous consequences?

A. I don't believe even today that, that was so. If I, as commander in chief, saw such a model order from a colleague with which I was not in agreement, I would just throw it into the fire. I believe that most of the commanders reacted in a similar manner.

Q. In other words—you didn't answer my question—but I understand your answer to be that the recipient of this Brauchitsch order would have been justified in throwing it into the fire, as you say, and not issuing such an order. That is what you would have done, is that what you say?

A. Yes.

* * * * *

Q. Well, Witness, you well knew as a matter of fact that Germany's leaders used any spurious and base excuse to give a propaganda reason for these wars, didn't you? For example, you knew that in the Case Green, in Czechoslovakia, it was suggested that the German Ambassador in Prague be murdered in order to lend the appearance that Czech terrorists had done it—you knew that, didn't you?

A. I learned that in Nuernberg from Jodl's diary.

Q. I think maybe you know something about another—You say you didn't know this plan, this suggestion to murder the German Ambassador in Prague during the course of the war at the time, you learned that only here in Nuernberg?

A. I heard about that later on.

Q. Only here in Nuernberg?

A. In Nuernberg, from Jodl's diary.

* * * * *

Q. You have repeatedly stated in connection with each of the invasions that none of the defendants played any part in the over-all planning. Is that correct?

A. I stated that none of the defendants participated in a responsible manner in the over-all planning.

Q. Did you participate in a responsible manner in the over-all planning?

A. I myself was responsible to the Commander in Chief of the German Army for the execution of his orders.

Q. My question was, did you participate in a responsible manner in the over-all planning? I know what your position was.

A. I, in my position, did participate in a responsible manner.

Q. Who else participated in a responsible manner in the over-all planning?

A. As far as the planning tasks assigned to the German Army were concerned?

Q. Well, Witness, what I want to know is the names of the men who participated in what you describe as the over-all planning.

A. Now I understand by over-all planning, the over-all organization of a war plan in which the branches of the armed forces participated. This task was solely a matter for the OKW, the elaboration of the tasks allocated by the OKW was a matter for the commands of the branches of the German Armed Forces.

Q. Who were the men in the OKW who did this over-all planning?

A. The over-all planning, according to my knowledge of the working of the OKW, proceeded from Jodl's department which was subordinate to Keitel's office, that is, these two agencies, by order of Hitler.

Q. Well, these two men now, Witness, didn't by themselves accomplish this over-all planning did they, within the OKW? Isn't that a rather large order for Keitel and Jodl?

A. No. But I think I understood your question to mean not as to who dealt with the ramifications of the task and who elaborated it and worked out the details, but who was responsible for the tasks and that is why I mentioned those two names.

Q. Witness, in this connection I am not at all interested in what you mean by responsibility. I am interested in hearing from you the men who actually did the work in preparing what you have described as over-all plans. What actually did they do? We will leave it to the Tribunal to determine whether those activities constitute responsible planning.

A. If I understand the question correctly I am to describe what the experts in the OKW did. Is that how you mean the question?

Q. In connection with what you described as over-all planning yes. Let's take a specific case. What did the defendant Warlimont do? Was he active in this over-all planning and if so what did he do?

A. I can't answer this question concisely because I myself did not serve in the OKW, but I can only give my personal impression and that impression is as follows: Warlimont did the elaboration and the working out. He prepared the data relating to the field of operation, organization, etc., as was always done by various departmental chiefs in my office.

Q. Now did Warlimont, do you think, consult with the commander in chief or any of the staff officers of the OKH and the OKL, and the OKM when he was doing the spade work in connection with developing this over-all plan?

A. Concerning the OKL and the OKM I cannot answer your question. Regarding the OKH, I do know that Warlimont was in contact with the Oberquartiermeister I of the General Staff, General von Stuelpnagel, in order to be advised by him or to exchange ideas and opinions.

Q. And out of this development work by Warlimont, with its final approval by Jodl, Keitel, and Hitler, came the directives for

a particular war, did it not, which outlined the broad strategic objectives?

A. I see the development along different lines. I emphasize once again that I personally never witnessed the course of this development, but I do know Jodl personally; I have known him very well, and I know Warlimont's career. Warlimont grew up in economic matters and when he entered the OKW, he had no experience in operational matters at all; whereas Jodl had grown up in the operational department of the army and had considerable experience along these lines. Also, as far as the personality of Jodl is concerned, his personality is in favor of the assumption that he was the spiritual creator, whereas Warlimont was the technical executive who worked in accordance with Jodl's directives.

Q. Now, this product of the OKW though constituted these directives which we have in the record; for example, Case Yellow, which would state that the Fuehrer is determined to crush England and France by an attack through the Lowlands, and language of that sort; and then give the broad strategic outline of the campaign. That was the product of the OKW, was it not?

A. That was issued by the working staff of the OKW. Yes. That is correct.

Q. And then those went to the OKH, the OKM, and the OKL?

A. Yes.

Q. Now, then, it was left up to each agency within the scope of that directive from the OKW to prepare its plans for that campaign, was it not?

A. Within the scope of the tasks indicated, the execution was left, for instance, to the OKH; practically it was limited by the fact that the intentions of the commanders in chief were to be reported to and approved at the top level.

Q. And in that planning, by we will say the OKH, the commanders in chief of the army groups and armies took part, did they not?

A. No. These agencies did not participate in the work of the OKH.

Q. Well, perhaps you can tell the Tribunal who planned the campaign against Poland. I was under the impression that the plans of the campaign for the army were worked out by the so-called, Working Staff Rundstedt.

A. No. That is incorrect. In the case of Poland, the OKH received a written directive from the OKW in which it was stated how in the case of an armed conflict with Poland, the offensive

was to be conducted. It was said that the two flanks were the crucial operational instruments etc. Now, based upon this data, the OKH grouped the forces available to it for the execution of this order and drafted a plan of deployment.

Q. Who drafted these plans for deployment and exactly what the course the campaign would be; wasn't that the Working Staff Rundstedt?

A. No. Rundstedt was solely concerned with the area provided for him, the southern sector of the Polish Front, and he had to prepare these orders only for this area.

Q. Well, at least the army group commanders prepared the plans for their particular area, did they not?

A. Yes. That was their task.

Q. And the commander of the army group, I should think, would work together with the commanders of his armies in developing these plans, is that correct?

A. Yes. He had to transmit his orders to the armies.

Q. And, it has been traditional in the German Army, has it not, at least up until Hitler undertook some interference, to permit the army group and army commanders a rather substantial amount of discretion in determining the tactical manner in which the operation would be carried out; is that correct?

A. It is not correct that they had full latitude and discretion. According to our chain of command, they received a definite mission from their superior agency in which they were told what to do and what means were available for their carrying out this mission, and upon this basis they themselves settled how the mission was to be accomplished.

Q. Now, I think you testified earlier that Schniewind played no responsible part, as you described it; do you actually know what planning activity Schniewind was engaged in in connection with any one of the campaigns?

A. No. I don't know any details of Schniewind's work. As far as I can judge, he was charged with executive work; the orders and commissions issued by the OKW to the navy in conjunction with his staff.

Q. Well, wouldn't it be a pretty fair comparison to say that Schniewind vis-à-vis the OKM occupied a position similar to your own with the OKH?

A. I can't describe it very briefly in a very concise manner. There was a certain similarity.

Q. Now, I note in your diary an entry for 24 November 1939; this is one day after the Fuehrer's speech, you will recall, which says: Schniewind, the plans are discussed with him. Do you remember that?

A. I don't recall it. Perhaps the entry could be shown to me; the diary is there, isn't it?

Q. The entry is marked in red pencil.

A. Yes. Thank you.

Q. Will you please give the Tribunal the sense of this entry?

A. It says: "Schniewind discussion of intentions".

Q. Do you recall anything about that discussion which you had with him?

A. My recollection is not clear. I infer from this note that after the discussion on the 23d, I talked with Schniewind about what intentions the navy had for the execution of the task which it had been assigned, in order to know whether the OKH had to make any allowances for the navy.

Q. Schniewind was the man that you would expect to know about the plans of the navy; is that right?

A. Yes. I, of course, assume that naturally.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON LEEB*

DIRECT EXAMINATION

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DR. LATERNSEER (counsel for defendant von Leeb): What were your assignments after the First World War?

DEFENDANT VON LEEB: I was transferred to the 100,000-man treaty army and became an expert in the Reich Ministry of Defense. Afterwards I became chief of staff in Military District II in Stettin, in Pomerania, in the same capacity I served in Munich—that was Military District VII. In 1924, I joined the troops as commander of the mountain artillery battalion in Landsberg on the Lech river. My career then concluded with my being Commander in Chief of an army group in Kassel.

Q. When did you become a general?

A. In 1929.

* Complete testimony is recorded in mimeographed transcript, 19-22 April 1948; pp. 2277-2534; 7770-7771.

Q. You just said that you finally became Commander in Chief of Army Group 2 in Kassel. When did you assume that position?

A. On the first of October 1933.

Q. How many army groups were there at that time?

A. Two.

Q. And how long did you remain Commander in Chief in Kassel?

A. Until February 1938.

Q. 1938. What was the reason for your retirement from this office in February 1938?

A. I assume for certain it was due to my opposition to the National Socialists.

Q. In what way were you notified of your retirement—were you told that you were to be retired?

A. The Personnel Office had the kindness to send an officer, by air to Kassel, who told me that I had been retired. An hour later this fact was broadcast through the German radio.

Q. What was your occupation after your retirement?

A. I lived in complete seclusion in Munich, and I occupied myself with studies of archives at the state and municipal archives in Landshut and Munich, and I was writing a history of my family.

* * * * *

Q. Now, after this brief survey of your career, I wish to put a few general questions to you. What was your attitude towards national socialism?

A. I was opposed to national socialism but not from the very beginning. At first, I was observing, awaiting, but afterwards I became distrustful, above all, because of the clamor there was—vociferous clamor that was being propagated. If somebody brags, and boasts, and boosts his goods, then, of course, one has to be on one's guard. Then followed the so-called "seizure of power", by Hitler in January 1933, and the important government posts were then given to National Socialists. Now, unfortunately in the course of the years, the good which there was or might have been in national socialism was transformed into the very opposite, and great damage was very soon caused.

Q. Field Marshal, what were the reasons for your hostile attitude towards national socialism?

A. These grave defects were in the domestic sphere, in the economic sphere, in the legal sphere, and in the ecclesiastical

sphere. In addition to that for us soldiers, there was the sharp opposition to Roehm and the SA and against Himmler with his SS.

Q. Now did you ever make any bones about your hostile attitude?

A. No.

Q. Were you a member of any National Socialist organization?

A. No.

Q. Have you read Hitler's book, "Mein Kampf?"

A. No.

Q. Now what was your relation to the political agencies at the time when you were still in office, I mean especially the time from February 1933 to February 1938, when you were in Kassel?

A. As commander in chief of the army group in Kassel I was not the territorial commander. Therefore, I had no official relations with the political offices. My personal relations to the local "Gauleiter", were confined to the indispensable minimum. I had no contact with other political agencies.

Q. Can you adduce some instance from your time in Kassel?

A. Reich Leader [Reichsleiter] Rosenberg came to Kassel and gave a lecture there. This was followed by a dinner. I was invited to attend both. I declined both invitations.

Q. Your relation or lack of relations to the political agencies and offices; was that an important and responsible factor in your retirement in 1938?

A. I assumed that for certain.

Q. How many generals were retired at that time?

A. As far as I recollect approximately ten.

Q. And how were these retirements regarded at that time?

A. As a purge of undesirable elements.

Q. What was your relationship to the political offices after your retirement from office?

A. There was none. I lived in complete seclusion.

Q. And then during the war?

A. During the war I was not a territorial commander in either France or Russia, and therefore, I had nothing to do with the political offices. In the winter of 1941-42, I was in Dresden at the headquarters, and in Dresden I paid a courtesy call to the local Gauleiter, I think his name was Mutschmann, and I called upon the Lord Mayor of Dresden. I was then invited to participate in a hunt, and I refused.

Q. What was the attitude of your family toward national socialism?

A. My wife repudiated national socialism like myself. My children were too small to show an attitude.

Q. Did you have any difficulties with your family in political respects?

A. I was being supervised and spied upon. That has been testified to by the prosecution witness Lahousen and a few days ago it was confirmed once again by General Halder.

Q. Were you denounced?

A. It was reported to top level authorities that no picture of Hitler could be found in my house. I was, thus, being spied upon within my four walls. It was further stated on other days that when it was mandatory I did not display flags; that was also reported to the top level authorities.

Q. Field Marshal, how did you learn about these matters?

A. The Commander in Chief of the German Army warned me.

Q. Was your official position and function also supervised?

A. I don't know, but I assume so.

Q. Did you protest against measures in the political sphere?

A. I made a very sharp protest when I was Commander in Chief of Army Group C during the war. I protested against a decree by Himmler. This decree was to the effect that since every war was bleeding the nation of its very best, it was the task of all women and girls to become mothers and bear children out of wedlock. This decree provoked the greatest indignation throughout the whole front and I lodged the sharpest protest against it with the Commander in Chief of the German Army.

Q. And what happened?

A. Himmler had to withdraw his decree. These incidents are described in a book which General Groppe [Major General Theodor Groppe] entitled, "The Struggle for Law and Morality",* and this book can be had at book stores.

Q. Field Marshal, how did it happen that after your retirement in February 1938, you were again called upon to serve in a military capacity?

A. Sometime after my retirement, I was telephoned by Berlin. As far as I recollect, I was telephoned by General Halder that I

* Witness is referring to "A Fight for Justice and Morals," experiences about the Armed Forces, the Party, and Gestapo ("Ein Kampf um Recht und Sitte," Erlebnisse um Wehrmacht, Partei, Gestapo) which appeared as pamphlet No. 1 of the pamphlet series: "Documents and Events of the 12 Years" ("Dokumente und Geschehen aus den 12 Jahren"); Paulinus Verlag, Trier, 1947. An extract from this pamphlet was introduced as von Leeb Document No. 82, Exhibit No. 74.

should prepare for a reassignment in an inactive position. It was provided that I should become the presiding officer of a commission working out regulations. I declined this. After a short time I was asked once again whether in case of a warlike conflict I wouldn't be prepared to put myself at the disposal of the country. I affirmed.

Q. Why did you state you were ready in case of war to serve?

A. I am of the opinion that as an officer in case of war I could not deny my services to my country, that is, if my country still had any use for me.

Q. Did you meet Hitler before 1933?

A. No.

Q. When did you meet Hitler for the first time?

A. After he had become Reich Chancellor and sometime thereafter came to Munich he called on me. At that time I was commander of the military district in Munich. On the following day I returned his visit by calling upon him at the Brown House.

Q. Did you meet him more frequently?

A. No. Only on official occasions.

Q. What kind of meetings were they?

A. Meetings such as the presence of Hitler during troop exercises and parades and other military functions. For instance, Hitler attended the big parade in the fall of 1936. I had to direct this maneuver. It lasted for five days. I reported to Hitler the first day. I saw him on the fifth day during the final conference.

Q. Did you also have personal discussions with Hitler alone?

A. Only once, on 13 January 1942, when I once again asked to be relieved of my duties.

Q. Did you advise Hitler in military matters and did you make suggestions to him regarding planning?

A. No. That was not my task.

Q. Field Marshal, what was one of the principal reasons for your opposition to national socialism?

A. The overt and at the same time the clandestine fight of Hitler and his satellites against all religious confessions.

Q. What was your attitude toward the church?

A. I always frankly confessed my religion, my creed, and fulfilled the duties imposed upon me by this religion publicly together with my family.

Q. Was your attitude to the church known to the top level authorities?

A. Yes.

Q. Did Hitler also know about it?

A. Yes.

Q. What are your grounds for this conclusion?

A. After I had been retired, my reassignment was being discussed and Hitler replied: "No, this man is too Catholic for my liking; his wife goes to church every day," which is proof that my wife also had been supervised.

Q. Field Marshal, I would now like to turn to the topic of, "rearmament". What was the position you held generally regarding armament as such?

A. The former Secretary of State Byrnes said recently in the course of a speech he made in public that weakness necessarily provokes aggression. He wanted to express by these words that a certain amount of armed force, of armament, was necessary. I think this opinion is correct. The present American President recommended only recently to both houses of Congress the reintroduction of universal military training and as a reason for his recommendation he said it was a sure means to maintain peace.

Q. What was the political situation of the German Reich since the Versailles Treaty?

A. Germany is situated in the heart of Europe and is unprotected by nature in its boundaries. Its boundaries are open, especially the eastern boundaries. It would lead me too far if I were to give a short historical lecture as to how many people had already assaulted our eastern frontiers, beginning with the Huns in the fifth century. I merely wish to point to the present pressure which is being exerted from the East by communism and its expansion, a pressure which is nothing new for us Germans. We Germans were surrounded by powerfully armed powers, which, contrary to the provisions of the Versailles Treaty, had not disarmed. They had millions of men in their armies. We, as is well known, had only 100,000 men without heavy armament, without armored equipment, without an air force. In addition, several states had territorial claims on us. I need not repeat this because I think you, Sir, stated these territorial claims in your opening statement in some detail. But, the most oppressive factor about our position at that time, that is 20-25 years ago, was that nobody extended a protecting hand to safeguard us. That was a fundamental difference from our present position today. Today we Ger-

mans are hoping confidently that the Western Powers, Great Britain and France, and particularly the United States of America will not allow further cessions of territory, especially in the East, of Germany which have not been defined by the treaties. At that time the then President Wilson was not able to assert himself with his Fourteen Points and the United States retired from European politics, and we Germans were left to ourselves and had to help ourselves.

MR. MCHANEY: If the Tribunal please, I think it might be well to instruct the witness that there is no occasion to engage in political statements from the witness stand; that he is there for the purpose of testifying to facts.

PRESIDING JUDGE YOUNG: I assume this is just a general background and within limits, and the Tribunal will not be disposed to stop the way the witness is examined. Don't go into it too deeply because you could extend it indefinitely, but within reasonable limits you can go ahead.

DR. LATERNSEK: Field Marshal, at what time did rearmament start?

DEFENDANT VON LEEB: As far as I recall in 1934.

Q. And what was its purpose?

A. Its purpose was to safeguard the security of our frontiers.

Q. What was the view adopted by the military agencies generally regarding rearmament?

A. They held the same view as did large parts of the German population, that is, we did not want to be any longer unprotected, surrounded by highly armed powers.

Q. What position did you hold at the time of rearmament?

A. I was commander of an army group in Kassel.

Q. What tasks did this position entail?

A. I merely had to supervise the training, and, therefore, I had a very small staff. I had nothing to do with rearmament. Rearmament was dealt with by the central offices and the executive offices where the army corps headquarters were. The two army group commands were not a part of this chain.

* * * * *

Q. Field Marshal, who determined the extent of rearmament?

A. Hitler.

Q. Now, in the planning for rearmament, did you participate in the planning or at conferences concerning rearmament?

A. No.

Q. What connection and contacts did you have with the political offices regarding requests for rearmament?

A. None.

Q. And to industry?

A. None, either.

Q. At that time did you expect an aggressive war on the part of Germany?

A. No. All statements of Hitler and the Reich Government made one conclude, at that time in those years, that Hitler wanted peace. For instance, waiving of our rights to Alsace and Lorraine; the naval agreement with Great Britain; the notes which he conveyed to other powers that he wanted to abolish air war; that he wanted to abolish heavy armament; and many other facts. Nothing pointed to the fact that rearmament was to serve aggressive war.

Q. How did the increase of the troops affect your activity?

A. Before the increase of troop strength, I commanded three infantry divisions and one cavalry division; and, with rearmament, I commanded four corps headquarters and twelve divisions.

Q. What was your attitude to the increase of troop strength to 36 divisions?

A. I thought that an increase from seven to 21 divisions would have been more expedient; that would have been a logical troop strength a tripling of the forces, making allowances for the number of available officers and noncommissioned officers, equipment, armament, munitions, etc. Things would have been built on a more solid basis. For the rest, I am of the opinion that it is not primarily a military question but that it is a political issue; the politician has to say whether and to what extent rearmament is necessary. You see it at the present time quite clearly in the case of the United States. Politics and the political situation force the United States to increase their armed forces. The soldier can then state how many men he needs in order to cope with the political situation. The soldier, for instance, can say how many divisions are necessary in order to deter a hostile neighbor from an aggressive war.

Q. Now, at the time of the rearmament, who was Commander in Chief of the German Army?

A. General Freiherr von Fritsch.

Q. What position did he take with regard to the rearmament?

A. As far as I remember, the same.

Q. And who was Chief of Staff of the German Army at the time?

A. Lieutenant General of the Artillery Beck.

Q. And what view did he take?

A. As far as I recall, the same view. Apart from that, the memorandum of General Beck of fall 1938, has been mentioned several times; his memorandum warning the government not to pursue a policy which might lead to war. I myself was not in his office; I had been retired at the time this memorandum was worked out.

Q. Field Marshal, at the time of your retirement in February 1938, did things look as if rearmament had been promoted for war purposes?

A. No. On the contrary, at that time I had the impression that rearmament was being pursued in order to maintain peace. Of course there are very many wise people who say: Of course we knew from the very beginning that rearmament was to serve only the purposes of aggressive war. I do not belong to those wise people.

Q. When was military freedom reintroduced?

A. In 1935.

Q. What did it mean?

A. The introduction of universal military training.

Q. Now, before its introduction, were you consulted on the matter?

A. No.

Q. In what way did you hear about the introduction of universal military training?

A. Through the public news media, just like every other German.

Q. When was the Rhineland occupied by Germany?

A. On 7 March 1936.

Q. To what command did it belong?

A. It belonged to my command.

Q. How did you learn of the intention to occupy the Rhineland?

A. A few days before the occupation I was called to the Commander in Chief of the German Army, General Freiherr von

Fritsch, to Berlin, and he told me that there was this intention which has to be carried out within a few days, and my task was to do nothing, to take no steps. Everything would be settled by the central office. I had to keep silent on this affair until 7 March.

Q. What was your attitude towards that?

A. I was pleased about the fact that the Rhineland was to be occupied and that it was being reincorporated as it were into the Reich. Whether it was expedient diplomatically to do it in this manner, of course, I could not tell, and I didn't know about it.

Q. What express order did you receive in this connection? I think that wasn't quite clear just now.

A. I was told I was not to talk about it because the whole operation was to be complete surprise.

Q. And what steps did you have to take, Field Marshal?

A. None.

Q. And who took the requisite steps?

A. The High Command of the German Army.

Q. How strong were the troops which marched across the Rhine towards the German frontier?

A. There were three battalions; one battalion was to be stationed in Aachen, facing the Dutch-Belgium border; another battalion in Trier, facing the Luxembourg frontier; and, one battalion in Saarbruecken, facing the French border.

Q. Was that a military occupation?

A. I don't think you could describe it as such. I think the move had a purely symbolical significance.

Q. Field Marshal, as you have testified before, in your sphere of work as commander in chief in Kassel, the training of the troops played the most important part. What kind of training was in use there mainly?

A. Most decidedly defensive training.

Q. How is that?

A. Geographically speaking and militarily speaking, even politically speaking, we were in a defensive position. Furthermore, the means never would have sufficed for an aggressive war.

Q. What tasks of a military nature did you put to the commanders subordinate to you?

A. From 1930 until 1933, I was a military commander in Bavaria and subsequently until 1938, I was army group commander

in Kassel, commander of Army Group 2. In these positions, I had one or two large scale trips to make. During these trips I had to instruct the subordinate commanders. In these 8 years I never put a task to anyone which had as its purpose aggression. The only tasks which I put to my subordinate commanders were of a defensive nature. As long as I was military commander in Bavaria, I concerned myself with my subordinate commanders on the spot with the defense of our eastern border, that is, east of Nuernberg, the Czech border.

Later on, as army group commander at Kassel I concerned myself with the defense of the Rhine and discussed that with my commanders, the various sections, the Upper Rhine, the Lower Rhine, the Middle Rhine, etc. When we had finished with the Rhineland, and could go further, I dealt with defensive tasks concerning the West Wall.

Q. What was the operational purpose of the West Wall?

A. It's clear from the nature of things that it could only have defensive purposes.

Q. Other than that, did you deal with questions of defense?

A. As stated once before, during the time as army group commander in Kassel I wrote a book about defense. Therein I derived the defense theory from the defensive position of Germany and in connection with that situation I discussed strategic, operational, and tactical aspects of defense.

DR. LATERNSEER: If Your Honor please, I should now like to submit as Exhibit 2, Document von Leeb 120. That is the book about defense which is available in the English language. That will become Defense Exhibit 2.

MR. MCHANEY: The prosecution objects to the admission of the exhibit on the ground that it is immaterial.

PRESIDING JUDGE YOUNG: I didn't understand your statement, Mr. McHaney.

MR. MCHANEY: This book, which is being offered, is a text or a piece on defensive tactics, as I understood it. Prosecution objects to its admission on the ground that it is immaterial.

DR. LATERNSEER: I think it is important and material, if Your Honor please.

PRESIDING JUDGE YOUNG: The Tribunal doesn't care for any argument on it. The document will be admitted and marked Defense Exhibit No. 2. Is that the request?

DR. LATERNSEER: Yes, sir. Field Marshal, now let us deal with the charge which is being made against you concerning the plan-

ning or alleged planning of aggressive wars. Wherein did you see your main task as an officer?

DEFENDANT VON LEEB: The main task of an officer I regarded to be the training and education of a young German to become a good soldier and a decent human being.

Q. What was your attitude toward war?

A. I maintained the opinion of our operational instructor, General Graf von Schlieffen. He regarded every war as a national disaster. Furthermore, we older officers all participated in the First World War and knew the horrors of a modern war. We knew what sacrifices such a war demanded of us and of our families. From a political aspect, I had the same opinion as that of the great military philosopher, Clausewitz. He described every military conflict as the last resort of politics.

Q. During your term of office until February 1938, did you consider that any danger of war existed?

A. No. I believed Hitler's statements and the statements of the Reich Government.

Q. On 5 November 1937, there was a conference held by Hitler with the commanders in chief of the Wehrmacht branches, in which conference Hitler allegedly discussed the possibilities of a future war. At that time, November 1937, who was your immediate superior?

A. General Freiherr von Fritsch.

Q. Did he inform you about the substance of that conference of 5 November 1937?

A. No.

Q. Did you learn about that conference from any other source?

A. No.

Q. When for the first time did you hear about it?

A. Two years ago when I was here in Nuernberg as a witness.

Q. Did you participate in any plannings for an aggressive war?

A. No.

Q. Were any such plans in existence at all?

A. I don't know. I have to correct myself there. I know it now through the testimony of General Halder made last week.

Q. And what about the time under discussion?

A. No, at that time, when I was still in active service, until February 1938, from about 1935 onward, it had been intended that I would be defending the western frontier with three weak armies.

Q. Were you present during any conference where the questions of an aggressive war were discussed?

A. No.

Q. During conferences with other commanders and commanders in chief were these questions discussed?

A. No.

Q. During your term of office until 1938, were any preparations being arranged for a future war?

A. Only the already mentioned placing of the three armies at the western frontier for the defense of that frontier.

Q. These three armies which you mentioned, did you consider them sufficient and adequate for the defense of the western borders?

A. They were very weak and the West Wall was at that time in its initial stages. The French generals and the French general staff officers enjoyed good operational training. Their operational principles and maxims were approximately the same as the ones we developed. According to our conception they are probably somewhat too rigid, too formal. A Frenchman, therefore, would have attacked me in the same way as we would have attacked the West Wall. By this I mean at one spot or, if he had been in a position to do it, at several places. He would have concentrated his force, his artillery, tanks, and air force and would have attacked. Against such an attack, I could most likely not have held out in the long run, even less so, since no adequate replacement forces were at my disposal in order to throw back the enemy who had invaded our country or even to stop him.

Q. And what was provided for such a case?

A. Well, then, nothing was provided for such a case, but what I would have had to do then would have developed necessarily from the situation. I would have fought and I would have had to withdraw across the Rhine, and there I would have tried to build up a new defensive formation.

Q. These statements which you are making now, Field Marshal, to what period of time do they refer?

A. These statements apply to the period of time until I left my office, which was February 1938.

Q. What connection did you have after you left your office, with military agencies?

A. None whatsoever.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON KUECHLER*

DIRECT EXAMINATION

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DR. BEHLING (counsel for defendant von Kuechler): Field Marshal, I should now like to refer to a comment by General Halder with reference to an event which he described to this Tribunal. General Halder testified that General Fritsch had played a decisive part in the resistance movement of the German generals. Is it correct that General Fritsch took part in the war, that he was heading his own regiment, and thus he participated in the Polish campaign and fell before the gates of Warsaw?

DEFENDANT VON KUECHLER: Yes.

Q. Now, can you describe a personal incident which was connected with his death?

A. General Fritsch was a close friend of mine; he had been a regimental comrade of mine. For many years we had spent our first period as lieutenants together in the city of Darmstadt. Subsequently we attended the War Academy together, and were transferred to the General Staff. He was one or two years ahead of me; he belonged to an earlier class because he was my senior, but we met very frequently.

Q. We are not interested in these details. Just tell us the incident, Field Marshal.

A. Well, I was a close friend of his, and he fell before the gates of Warsaw. Being an old regimental comrade and a friend of mine, and as I was Commander in Chief of the Army, I made the memorial speech. In that speech I appraised his merits as a human being and as a soldier, and of course I had to refer to his political attitude as well. In that connection I made some criticism of the events which had led up to his retirement in 1938.

Q. Did this speech create a stir?

A. It must have created a stir, because the publication of this speech was prohibited, and only that memorial speech was published which General von Brauchitsch—who later was Field Marshal von Brauchitsch—made at the grave of Fritsch in Berlin.

* * * * *

JUDGE HALE: Dr. Behling, would it interfere too greatly with your examination if I now asked the witness a few questions about the Fritsch affair?

* Complete testimony is recorded in mimeographed transcript, 27-29 April 1948, pp. 2787-3002.

DR. BEHLING: I have no objections whatsoever.

JUDGE HALE: I would like for you to give us a brief history of the Fritsch affair.

DEFENDANT VON KUECHLER: In the winter—it must have been at the beginning of 1938—I was unexpectedly called to Berlin in order to attend a conference with Hitler. The reason for this conference was not known to me. Since in any event I knew Fritsch well, and since I had, of course, always matters to discuss with him, I went to see him on the morning of the conference at about ten o'clock. I called at General Fritsch's apartment but was not admitted there.

I have to supplement here that Fritsch lived on the third floor of the Reich Defense Ministry and of course one had to be announced by the porter in order to be allowed to enter the lift. I once again called his apartment from the porter's lodge and asked him to admit me because there were various matters which I'd like to talk to him about; and again he refused to see me.

Only when I entered the conference room in the Reich Chancellery did I hear a rumor from some people that something was the matter with Fritsch. In the Reich Chancellery the commanders in chief and the commanding generals were gathered together. Hitler arrived and faced us and told us that after long considerations and after long thinking back and forth he had finally decided to suspend General Fritsch from the service, since it was suspected that he had abnormal sexual leanings. All of us who listened were more than surprised, and particularly those of us who knew General von Fritsch well said that it was quite impossible. Hitler made some comments on these alleged happenings, and ended by saying that on Fritsch's request a court martial and a court of honor would be instigated, and until such time he assigned General von Brauchitsch as the man to be in charge of the OKH.

Subsequent to this conference Brauchitsch talked to us and on this occasion General von Rundstedt also made some comments. I don't know whether it was Brauchitsch who spoke first or Rundstedt. The two men implored us not to be too hasty in our steps because over-hasty measures on our part might endanger the whole organization of the armed forces. All we were to do was to take our places and wait for the decision of the court of honor and the court martial which Fritsch had requested.

Many of us at that time had the intention to resign on the grounds that if our commander in chief, who was held in high esteem by all of us, had been charged with such certainly unfounded matters, then we could not stay either. However, the force of necessity in that situation during which the armed forces

were being built up and organized, and the persuasive requests which were submitted to us by Brauchitsch and Rundstedt gave us, or at least me, cause to remain at our posts.

On the train trip from Berlin during a sleepless night I pondered on Fritsch's position, and I fought with myself whether I was to remain or whether I was to leave and, above all, I pictured what Fritsch would do if he were in my place. Since I knew Fritsch rather well, I told myself that Fritsch would stay, Fritsch would do his duty in spite of all personal contrasts and difficulties or inner conflicts; Fritsch would remain at his post; and that is why, I, for my part, also decided not to put in my resignation, but to stay.

About 4 weeks later we were again called to Berlin. (I should like to interpolate here that Goering was put in charge of the court of honor and of the military court.) As I said, 4 weeks later we were again called to Berlin and on that occasion Goering held an address and after reading the whole of the sentence and the records of the court of honor and the military court, he said that all the charges and accusations raised against Fritsch had been proved to be immaterial. In the final analysis a mix-up of names was found to be involved of another Herr Fritsch who was supposed to live in Lichterfelde and who had been denounced by a certain individual because this individual thought that it was General von Fritsch and that he could blackmail some money out of him.

This whole story reached Himmler's ears and either Himmler or Heydrich raised these accusations against Fritsch, which finally led to his discharge. Subsequently, a number of incidents were mentioned where this denouncer had said that he had been together with Fritsch on certain occasions.—There was a gentleman who had worn a monocle; had carried a stick with a silver knob; the individual had often seen him taking walks in the Berlin Tiergarten, etc. However, all these matters proved to be unfounded in the final analysis. Investigations were initiated concerning Fritsch's circle of personal acquaintances. It was discovered that he had many such acquaintances, and since he was a bachelor he often asked young people, Hitler Youth members, as guests to his apartment on Sundays. They were sons of friends of his who lived outside of Berlin but who were going to school in Berlin. He was reproached with all these things. What could have happened during his gatherings with these young people? These matters also proved to be completely unfounded on the basis of testimony of the servants in Fritsch's apartment and his barman.

The end of the whole story was that Fritsch was proved to be

beyond reproach, and all of us suspected something to happen which would rehabilitate Fritsch, at least in our eyes.

I should like to anticipate here, that after the conference during which Goering had spoken to us, Hitler entered the room briefly and told us that what we had suspected from the very beginning, namely that General von Fritsch was a man of integrity, had now been proved to be true, and it was only a matter of course that this man who had brought General von Fritsch into such a position and who had denounced him, should be liquidated.

Whether that actually happened, or not, I don't know. At any rate, Hitler said decisively and with a certain feeling of regret that he was sorry he had ever been involved in this whole affair. After the conference Brauchitsch again came and talked to us, and we all expected that something would happen to rehabilitate Fritsch, as I said, something which would give him back his honor as a soldier. That he could no longer remain Commander in Chief of the German Army, that he could no longer closely collaborate with Hitler, we already realized, because after such an incident, of course, it was no longer possible for the two of them to trust each other, but we expected something to happen. Fritsch was very quickly made the chief of the 2d Regiment and the regiment was given his name. Fritsch was presented with an apartment; he was kept on our army register. He received permission to live at Achterberg, which is a troop training ground somewhere near Muenster or Munster. He was assigned horses, orderlies, servants, —all of these things he was assigned officially. Subsequently, I once talked to Fritsch and I told him of my needs and worries and my ideas, and I told him that I intended to put in my resignation, and he said to me, (he called me Georg, which is my first name), "Don't do that, you will have to stay. The individual does not matter. Even if an individual has sometimes been done an injustice, the whole has to take precedent. Think of your Fatherland. Think of your duty. You and your services are needed for your country and for the armed forces." So I remained.

Q. What was the motive behind the placing of these false charges against General von Fritsch?

A. Whether Himmler was the instigating force behind it, or whether it was Goering, or whether that idea was borne out by Hitler himself, I don't know. But one thing is certain: in view of the whole attitude of my friend Fritsch, he could not agree with the highest levels of the Party, and he was the obstacle, in actual fact or morally, in Hitler's path.

I am convinced that he would never have admitted the development which events took subsequently, and he would have somehow found the means of stopping them, and avoiding the erroneous

roads which Hitler and his Party agencies took. That is why he was uncomfortable for the Party; he had been a human being and moral, and that is why he had to be eliminated. Your Honor, these are considerations which I thought of much later, but not at the time, because at that time I was in no position to realize the situation as I do now, but I think those were the reasons. At the time this happened, of course, these considerations were not as clear to me as they are now, but in view of the later developments, I clearly realized; Fritsch had to be eliminated.

Q. In your eulogy to General Fritsch, who as I understand, was killed in your campaign against Warsaw, you referred to his humiliation and exoneration. Can you tell us briefly what you said?

A. I talked about our personal relationship within the regiment. Then I briefly described our activity during the World War; his merits in the postwar period in leading and building up the armed forces. Of course, I spoke of his character and his characteristics. I said, approximately, that the humiliating fate and the humiliating intrigue had brought accusations against Fritsch which had resulted in his discharge from the armed forces in 1938; that Fritsch, however, had risen free and a man of integrity out of these reproaches. That no blemish had remained on his honor as a man, and a soldier, and an officer, and that those parties who had reproached and accused Fritsch were the responsible parties for the incident which had led to his retirement. Fritsch remained, as he had been before, an example for all the officers, and we all have to take him as an example of honorable personality as a soldier and a man. Those approximately were my words. I think I used the expression, "They threw mud at you, but that mud could not stick to your person."

* * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT LEHMANN*

DIRECT EXAMINATION

DR. VON KELLER (counsel for defendant Lehmann): What was your preliminary sphere of work at the Reich Military Court?

DEFENDANT LEHMANN: I presided over a senate which decided on revisions, that is, legal complaints in military trials. In this position I was able to carry out an activity where political considerations were of no importance whatever.

Q. Did that state of affairs always remain the same, that you only had to do with nonpolitical matters?

* Complete testimony is recorded in mimeographed transcript, 15, 16, 19, 20, 26-27 July 1948; pp. 7909-8180, 8481-8582.

A. In the general routine of my work, that was the case, but this activity was interrupted when a tribunal was appointed by Hitler to investigate the charges raised against General Freiherr von Fritsch. General von Fritsch had been charged with homosexual offenses and a court was nominated to investigate these charges and the president of this court was Goering. The associate judges were Admiral of the Fleet Raeder, General von Brauchitsch, and two presidents of the Senate of the Reich Military Court, and I was one of them. I was the youngest member of this court.

Q. When did this trial take place?

A. This court was called on 8 February 1938.

Q. Did you also participate in this trial?

A. Yes. I attended the trial and I also drew up the verdict.

DR. VON KELLER: If Your Honor please, at this point I should like to refer to the testimony of General Halder who has stated that Dr. Lehmann had deserved particular appreciation in the circles of the army through the part which he played in the Fritsch trial.—I should now like to ask you, Dr. Lehmann, do you know all the background of this trial?

A. I don't know all the background, but I think I know the most essential aspects.

Q. What effect did this trial have on the armed forces?

A. General von Fritsch's innocence was established, and in spite of this the German Army had lost its Commander in Chief and he was never returned to the German Army. In my opinion this trial was one of the most essential turning points of the new German history.

Q. Was the trial of any importance for the jurisdiction of the armed forces?

A. Yes. It was in several aspects. Hitler's antipathy towards the jurisdiction of the armed forces, in my opinion, was one of the main facts on which the result of this trial was based. That was the negative aspect. The trial, however, also had a favorable result for us. Goering, after this trial, was our most effective political support. I might almost say he was our only really effective political ally. Until the date of this trial he had not concerned himself at all with the jurisdiction of the air force. At best he expressed that he was displeased with it. After the day on which this trial started he took over the leadership in jurisdiction in the air force and he helped us in many instances. To prove this, I can mention that during the war the chief of air force legal department reported to him more than 100 times.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT SCHNIEWIND¹

* * * * *

DIRECT EXAMINATION

DR. MECKEL (counsel for defendant Schniewind): Admiral, will you please state briefly your age, origin, and your career until the end of the First World War?

DEFENDANT SCHNIEWIND: I am 60 years of age. I was born and I grew up in the Rhineland. My ancestors were lawyers, medical men, civil servants. I attended college in the Rhineland, and after graduation I joined the navy in 1907. In 1910 I was promoted to the rank of an officer. Before the First World War I was cruising for two years in East Asia, then I was for two years in home waters. During the First World War I was on torpedo boats as an officer of the watch and as a commanding officer. With my torpedo boat flotilla in 1918, I was interned by the British at Scapa Flow, and after the scuttling of the German fleet I became a British prisoner of war.

* * * * *

Q. What assignments did you have until 1938?

A. After my return with the cruiser, "Koeln", I became Chief of Staff of the Fleet Command.

Q. Just a moment. When was that, Witness?

A. In the fall of 1934. I remained in this position until the fall of 1937. During that period I was promoted to commodore and in the fall of 1937, I became chief of the Naval Defense Office.

Q. The prosecution has submitted a series of documents dealing with the rearmament of the navy. Will you please comment on those documents.

The first document I put to you is C-141, Prosecution Exhibit 992.²

A. This is a communication by the Chief of the Naval Command, dated 10 February 1932, to several forward agencies among them also the Fleet Command.

Q. Will you briefly describe its contents?

A. It deals with the question and informs the agencies about this question that individual S-boats [PT boats] could be equipped with torpedos but that these torpedos could not be placed on board

¹ Complete testimony is recorded in mimeographed transcript, 25-27 May 1948; pp. 4791-4967.

² Document reproduced in section B1.

the ship owing to treaty obligations, that they were to be stored at the shipyards.

Q. Did you see this communication at the time?

A. No.

Q. But you were the expert [Referent] in the fleet staff, weren't you?

A. At the time when I was the special expert in February 1932, it was directed to the fleet, but my field of work didn't deal with these purely ordnance matters. I was an expert in tactical and strategical matters, dealt with maneuvers, fleet cruises, and so forth.

Q. Did you obtain knowledge of it in any other way?

A. No.

* * * * *

Q. The next document I put to you is C-166, Prosecution Exhibit 997.¹

A. This is a communication of the Naval Command Office, signed by the then office chief—

Q. Just a moment, Witness. To whom was this communication addressed?

A. To the individual departments of this office.

Q. Thank you, Witness.

A. It was circulated therefore, within the Naval Command.

Q. Did you ever see the communication?

A. No.

Q. Did you ever have knowledge of its contents?

A. No, neither.

* * * * *

Q. The next document is C-156, Prosecution Exhibit 1020.² This is a communication by Navy Captain Schuessler,—“The Fight of the Navy Against Versailles From 1919 to 1935”. It was issued by the High Command of the Navy, as a secret service regulation in 1937. When did you see this pamphlet for the first time?

A. I have seen this document for the first time last September or October when it was put to me by an interrogator in the preliminary interrogations to this case.

¹ Document reproduced in section B2.

² Document reproduced above in section B1.

Q. You have now read this document and know its substance. In the years before 1939, were you familiar with the events described in this document?

A. I never got to know the events in the way they are described in this document. Of course, one did hear of one or the other of the matters which are described there. For instance, it was current talk in the navy that former German U-boat officers were working somewhere abroad on the design of submarines. I regarded this as a purely business matter, partly desired and supported by foreign governments, but I have never known that these agencies abroad were working for the German Navy and with the support of the German Navy. Certainly things from the so-called, "Lohmann Case", were also known to me, but here again you could not see into the actual background of this.

* * * * *

Q. In June 1937, the Reich War Ministry issued instructions for the unified preparation for war by the German Armed Forces. This is Document C-175, Prosecution Exhibit 1022.* Did you ever see this directive?

A. No. It went to the commanders in chief of the three branches of the German Armed Forces.

Q. What were you at the time?

A. At that time I was Chief of the Fleet, and the Fleet Command never received this directive.

Q. I beg your pardon, Witness, I think that you made a mistake. You said that in 1937, you had been Flottenchef.

A. In June 1937. No. I beg your pardon, I was Chief of Staff of the Fleet Command.

Q. What was your mission as Chief of Staff of the Fleet Command?

A. The tasks of the Chief of Staff of the Fleet Command can basically be defined in a similar way as the tasks of a Chief of Staff in the Army, that is, the Chief of Staff was the responsible man in charge of the tasks and work within the Fleet Staff. He was responsible to the Chief of Staff of the Fleet, for the proper dealing with these matters and for the rest he was the senior advisor to the Chief of Staff of the Fleet for such matters as were dealt with by the Fleet Staff.

Q. At that time and in that capacity, did you ever get to know of any plannings or any preparations for war?

A. Unequivocal plannings or preparations for mobilization, I

* Document reproduced above in section B2.

never got to know, but nonetheless even at that time and also within the sphere of the fleet the problem of Poland played a certain part. There was a so-called study, "East", which originated in about the middle of the 1920's, which dealt with the complications or the contingencies of such complications. In such a case the fleet was charged with the task of securing the coast lines within the Baltic Sea, to secure the sea communications to Scandinavia, and also the sea communications to East Prussia.

Q. Now, as to this study, were these actually operational plans which had been fully worked out? I believe the term, "study", should be explained in one or two sentences, Admiral.

A. No. They were neither operational plans nor orders for operations, but it was a purely military discussion, a record of thoughts regarding such possibilities as would result from a war with Poland for the fleet and for the navy.

Q. Thank you. I think that is all right—that is enough, Witness. Now, during that period, the occupation of the Rhineland took place. Did you participate in that in any way?

A. On the day before the occupation of the Rhineland the Fleet Command, through a courier from Berlin, received knowledge of the intention to occupy the Rhineland and at the same time they received the order to be prepared for certain security measures in case the Western Powers should intervene. These security measures never materialized.

Q. At that time with the forces of the navy, would you have been able to resist an intervention by the Western Powers—would you have been able to put up a substantial show of resistance to the intervention of the Western Powers?

A. No. That was a hopeless task.

Q. In fall 1937, you became chief of the Naval Defense Office. What rank did you hold at the time?

A. I was commodore.

Q. What tasks did the Naval Defense Office, have to deal with?

A. The Naval Defense Office dealt exclusively with personnel matters. It had to deal with the replacement of naval personnel, it dealt with the regulations governing the career of naval personnel. It was responsible for dealing with disciplinary and legal questions, and finally, welfare and pension matters also fell into its sphere of work.

Q. That is, it did not deal with defense matters, that is, armaments and so forth?

A. No.

* * * * *

C. The Occupation of Austria and Czechoslovakia, 1938-1939

I. CONTEMPORANEOUS DOCUMENTS—AUSTRIA PARTIAL TRANSLATION OF DOCUMENT 1780-PS* PROSECUTION EXHIBIT 1034

EXTRACTS FROM DIARY OF GENERAL JODL,
FEBRUARY-MARCH 1938

* * * * *

1938

11 February

In the evening and on 12 February, General K. [Keitel] with General von Reichenau and Sperrle at the Obersalzberg. Schuschnigg together with G. Schmidt are again being put under heaviest political and military pressure. At 2300 hours Schuschnigg signs protocol.

13 February

In the afternoon General K. asked Admiral C. [Canaris] and myself to come to his apartment. He tells us that the Fuehrer's order is to the effect that military pressure by shamming military action should be kept up until the 15th. Proposals for these deceptive maneuvers are drafted and submitted to the Fuehrer by telephone for approval.

14 February

At 2:40 o'clock the agreement of the Fuehrer arrives. Canaris went to Munich to the counterintelligence office [Military District] VII and initiates the different measures.

The effect is quick and strong. In Austria the impression is created that Germany is undertaking serious military preparations.

15 February

In the evening an official communique about the positive results of the conference at the Obersalzberg is issued.

16 February

Changes in the Austrian Government and general political amnesty.

* * * * *

* See Nazi Conspiracy and Aggression *op. cit. supra*, vol. IV, pp. 360-369, for more complete translation.

22 February

At 1300 hours General K. sees the Fuehrer in order to inform him about the planned advances.

* * * * *

3 March

The Austrian question is becoming critical. One hundred officers shall be dispatched there. The Fuehrer wants to see them personally. They should not say at home that the Austrian Armed Forces will fight better against us, but rather that they do not fight at all.

* * * * *

10 March

By surprise and without consulting his ministers, Schuschnigg ordered a plebiscite for Sunday, 13 March, which should bring strong majority for the Legitimists in the absence of plan or preparation.

Fuehrer is determined not to tolerate it. The same night, 9-10 March, he calls for Goering. General v. Reichenau is called back from Cairo [Olympic Committee]. General v. Schobert is ordered to come, as well as Minister Glaise-Horstenau, who is with the Gauleiter Buerckel in the Palatinate. General Keitel communicates the facts at 1:45. He drives to the Reich Chancellery at 10 o'clock. I follow at 10:15, according to the wish of General v. Viebahn, to give him the old draft.

“Prepare Case Otto.”

1300 hours: General K. informs chief of operations staff [and] Admiral Canaris. Ribbentrop is being detained in London. Neurath takes over the Foreign Office.

Fuehrer wants to transmit ultimatum to the Austrian Cabinet. A personal letter is dispatched to Mussolini and the reasons are developed which force the Fuehrer to take action.

1830 hours: Mobilization order is given to the command of the 8th Army (Corps Command 3), VII and XIII Army Corps; without reserve army.

Air force puts 300 Ju[nkers] 52 in readiness for dropping of propaganda pamphlets. In addition, one pursuit squadron, three bomber groups, and two companies as airborne troops with transport planes are held ready at civilian airports in Bavaria.

Subordinated to the army are: one bomber group of the air force, 2 F, 3 H squadrons, courier squadron, one heavy AA Bn., Regt. General Goering.

11 March

Instruction No. 1 of the Fuehrer is given on 11 March at 1200 hours without signature; at 1300 hours with his signature.

The army is joined by the SS military units in regiments, 40,000 men of the police and the Death Head Unit Upper Bavaria as second wave.

1700 hours: The navy has ordered all ships back home.

1800 hours: Schuschnigg has resigned; Seyss-Inquart is Chancellor. SA and SS perform duty in uniform. Own movements have commenced. Frontier will not be crossed at the moment. Air force plans large scale propaganda flights for tomorrow. The police force will be needed in any case and will be mixed with the troops.

1835 hours: Department L. has been informed. Colonel Winkler and Senior SS Colonel Petri have also been informed. The air force has its doubts if it should initiate the movements that have not yet started.

Decision: Yes.

2030 hours: Briefing received from Major General Viebahn, that the situation has changed once more. The occupation will take place.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT 4005-PS
PROSECUTION EXHIBIT 1370

EXTRACT FROM A SPEECH BY GAULEITER RAINER, 11 MARCH 1942,
MENTIONING THE PARTICIPATION OF GENERAL KEITEL AND
DEFENDANT SPERRLE IN THE HITLER-SCHUSCHNIGG
CONVERSATIONS OF 12 FEBRUARY 1938*

* * * * *

While Schuschnigg had his train-coach disconnected at Salzburg and spent the night there, and continued by car to the Obersalzburg on the following day, Muehlmann went on and was in Berchtesgaden; Keppler and he went to the Fuehrer before Schuschnigg came and could tell him everything. Schuschnigg arrived in the morning, was received, and was greatly surprised that the Fuehrer took up the negotiations where they had broken off without results the day before between Seyss [Seyss-Inquart] and him. The Fuehrer did not conduct the negotiations as Schuschnigg had expected. He went whole hog. Schuschnigg was finished off that time. The Fuehrer got hold of him, insulted him [befetzt] and

* This is an extract from a long speech entitled, "National Socialism in Austria from the July Rebellion in 1934 to the Seizure of Power on 11 March 1938." The final parts of this speech are reproduced in full in *Nazi Conspiracy and Aggression, op. cit. supra*, Supplement A, pp. 695-715.

shouted at him and reproached him with all the dirty tricks Schuschnigg had committed during the years past. Schuschnigg had become a heavy smoker. We had connections even into his bedroom, we knew about his way of life, sometimes he was smoking 50, sometimes 60 cigarettes. Now with the Fuehrer he was not allowed to smoke.

Ribbentrop told me he really pitied Schuschnigg. He only stood at attention before the Fuehrer, had his hands at his sides and all he said was, "Yes sir." Schuschnigg tried to object to something but got so terribly shouted at that he fell back into silence. Then the meal was taken. Then the Fuehrer called Sperrle who had just relinquished the command in Spain. The Fuehrer asked him to speak about the air force.* Schuschnigg was given a very impressive picture of the German Armed Forces. Keitel, too, was present. After the meal the Fuehrer asked Ribbentrop to continue conversations with Schuschnigg. Before the conversation with Schuschnigg began, Schmidt went to Ribbentrop and said, "Please permit that the Austrian Chancellor smokes one single cigarette," which was allowed. Ribbentrop then talked to him: "Now look at the situation as it is—the Fuehrer is not a man to joke with. There are chances for you, the Fuehrer wants to conclude the treaty with you, if you agree. The development leads to national socialism." He developed before him how Hitler saw the future Reich, how the Anschluss [incorporation] was. Ribbentrop had the feeling of having mollified Schuschnigg by his kind words. So it was possible to draft a number of regulations in the final conversations.

* * * * *

TRANSLATION OF DOCUMENT C-102
PROSECUTION EXHIBIT 1037

DIRECTIVE NO. 1 OF THE SUPREME COMMANDER OF THE ARMED
FORCES, 11 MARCH 1938, CONCERNING OPERATION OTTO

[Stamp]

High Command of the Navy
B. No. 5/38 "oil"

Berlin, 11 March 1938

The Supreme Commander of the Armed Forces
OKW L Ia No. 420/38 Top Secret

* See deposition of Schuschnigg, Document Sperrle 79, Sperrle Defense Exhibit 79, concerning Schuschnigg's view of Sperrle's participation in this conference, reproduced in section C3.

Subject: Operation Otto

[Stamp] TOP SECRET

Directive No. 1

1. If other measures prove unsuccessful, I intend to invade Austria with armed forces to establish constitutional conditions there and to prevent further outrages against the pro-German population.

2. The whole operation will be directed by myself.

According to my instructions—

The Commander in Chief of the Army will direct the land operations with the 8th Army in the formation and strength suggested to me, and with the attachments of the air force, the SS and police (see appendix).

The Commander in Chief of the Air Force will direct the air operations with the forces suggested to me.

3. Mission.

a. Army—The invasion of Austria must be carried out in the manner explained to me. The army's first target is the occupation of Upper Austria, Salzburg, Lower Austria, the Tyrol, the speedy occupation of Vienna, and the securing of the Austro-Czech frontier.

b. Air Force—The air force must demonstrate and drop propaganda material, occupy Austrian aerodromes for the use of further possible reinforcements, assist the army upon demand as necessary; apart from that, hold bomber units in readiness for special tasks.

4. The forces of the army and air force detailed for this operation must be ready for invasion and/or ready for action from 12 March 1938 on at the latest at 1200 hours.

I reserve the right to give permission for crossing and flying over the frontier, and to decide the actual moment for invasion.

5. The behavior of the troops must give the impression that we do not want to wage war against our brother nation. It is in our interest that the whole operation shall be carried out without any violence but in the form of a peaceful entry welcomed by the population. Therefore, any provocation is to be avoided. If, however, resistance is offered it must be broken ruthlessly by force of arms.

Austrian units who come over to us, immediately come under German command.

6. On the remaining German frontiers no security measures are to be taken for the time being.

[Initial] K. [Keitel]
[Signed] A. HITLER

TRANSLATION OF DOCUMENT C-182
PROSECUTION EXHIBIT 1038

DIRECTIVE NO. 2 OF THE SUPREME COMMANDER OF THE ARMED
FORCES, 11 MARCH 1938, CONCERNING OPERATION OTTO

TOP SECRET

Supreme Commander of the Armed Forces
OKW L Ia No. 427/38 Top Secret

Berlin, 11 March 1938
2045 hours

[pencil note] CinC Navy has been informed
Subject: Operation Otto

35 Copies, 6th Copy

Directive No. 2

1. The demands of the German ultimatum to the Austrian Government have not been fulfilled.

2. The Austrian Armed Forces have been ordered to withdraw in front of the entry of German troops and to avoid fighting.

The Austrian Government has ceased to function of its own accord.

3. To avoid further bloodshed in Austrian towns, the entry of the German Armed Forces into Austria will commence, according to directive No. 1, at daybreak on 12 March.

I expect that set objectives be reached, by exerting all forces to the full, as quickly as possible.

[Signed] ADOLF HITLER
[initial] J. [Jodl]

2. CONTEMPORANEOUS DOCUMENTS—
CZECHOSLOVAKIA

TRANSLATION OF DOCUMENT TC-27
PROSECUTION EXHIBIT 1047

TEXT OF DIPLOMATIC NOTE FROM CZECHOSLOVAK MINISTER IN
LONDON TO THE BRITISH SECRETARY OF STATE FOR FOREIGN
AFFAIRS, 12 MARCH 1938

M. Masaryk to Viscount Halifax.—(Received March 12)

London, 12 March 1938

My Lord,

I have reported to my government the interview which you were good enough to grant me today.

I have in consequence been instructed by my government to bring to the official knowledge of His Majesty's Government the following facts: Yesterday evening (11 March) Field Marshal Goering made two separate statements to M. Mastny, the Czechoslovak Minister in Berlin, assuring him that the developments in Austria will in no way have any detrimental influence on the relations between the German Reich and Czechoslovakia, and emphasizing the continued earnest endeavor on the part of Germany to improve those mutual relations.

In the first statement the Field Marshal used the expression: "I give you my word of honor."

In the second statement Field Marshal Goering asserted that, having given his own word previously, he was now able to give the word of the head of the State, who had authorized him to take over temporarily his official duties. He then repeated the above assurances.

Today (12 March) Field Marshal Goering asked M. Mastny to call on him, repeated yesterday's assurances and added that the German troops, marching into Austria, have strictest orders to keep at least 15 kilometers from the Czechoslovak frontier; at the same time he expressed the hope that no mobilization of the Czechoslovak Army would take place.

M. Mastny was in a position to give him definite and binding assurances on this subject, and today spoke with Baron von Neurath, who, among other things, assured him on behalf of Herr Hitler that Germany still considers herself bound by the German-Czechoslovak Arbitration Convention concluded at Locarno in October 1925.

M. Mastny also saw Herr von Mackensen today, who assured him that the clarification of the Austrian situation will tend to improve German-Czechoslovak relations.

The Government of the Czechoslovak Republic wish to assure His Majesty's Government that they are animated by the earnest and ardent desire to live in the best possible neighborly relations with the German Reich. They cannot, however, fail to view with great apprehension the sequel of events in Austria between the date of the bilateral agreement between Germany and Austria (11 July 1936), and yesterday (11 March 1938).

I have, &c.

[Signed] JAN MASARYK

PARTIAL TRANSLATION OF DOCUMENT 2360-PS
PROSECUTION EXHIBIT 1058

EXTRACT FROM HITLER'S REICHSTAG SPEECH, 30 JANUARY 1939,
PUBLISHED IN "VOELKISCHER BEOBACHTER," 31 JANUARY 1939

* * * * *

"On account of this intolerable provocation which had been aggravated by a truly infamous persecution and terrorization of our Germans there, I had resolved to solve once and for all, and this time radically, the Sudeten German question. On 28 May I ordered, (1) that preparations should be made for military action against this State by 2 October. I ordered, (2) the immense and accelerated expansion of our defensive front in the West."

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PARTIAL TRANSLATION OF DOCUMENT 1780-PS¹
PROSECUTION EXHIBIT 1034

EXTRACTS FROM DIARY OF GENERAL JODL, 1937-1938

1937

* * * * *

5 November

Hitler develops his ideas of future development, intentions, and conduct of policy to the Commanders in Chief of the Armed Forces, the Army, the Navy and the Air Force.

There is a divergence in the recording of his ideas as made by the Chief of the Armed Forces Office (Reich War Ministry) and by the Commander in Chief of the Air Force (directive to the Chief of the General Staff of Air Force). (No minutes were kept).

Intention of L. to put ideas on paper and transmit them to the services (CinC, Air Force) ; furthermore, to incorporate them into mobilization instructions.

1938

* * * * *

[*undated entry*].²

After annexation of Austria, the Fuehrer mentions that there is no hurry to solve the Czech question because Austria has to be digested first. Nevertheless preparations for "Case Green", will

¹ See "Nazi Conspiracy and Aggression," *op. cit. supra*, vol. IV, pp. 360-369, for more complete translation.

² This entry follows the entry of 11 March 1938, reproduced in the excerpts from Jodl's diary in section C1.

have to be carried out energetically; they will have to be newly prepared on the basis of the changed strategic position because of the annexation of Austria. State of preparations (see memorandum L Ia of 19 April) reported to the Fuehrer on 21 April.

The intention of the Fuehrer not to touch the Czech problem as yet is changed because of the Czech strategic troop concentration of 21 May, which occurs without any German threat and without the slightest cause for it.

Because of Germany's self-restraint, its consequences lead to a loss of prestige of the Fuehrer, which he is not willing to take once more. Therefore, the new order is issued for "Green", on 30 May.

* * * * *

22 May

Fundamental conference between the Fuehrer and K. Henlein¹ (see enclosure).

23 May

Major Schmudt reports ideas of the Fuehrer. Further conferences, which gradually reveal the exact intentions of the Fuehrer take place with the Chief of the High Command of the Armed Forces on 28 May, 3 and 9 June, see enclosures. (War Diary L.)

30 May

The Fuehrer signs directive, "Green", where he states his final decision to destroy Czechoslovakia soon and thereby initiates military preparation all along the line. The previous intentions of the army must be changed considerably in the direction of an immediate break-through into Czechoslovakia right on X-day, combined with aerial penetration by the air force. Further details are derived from directive for strategic concentration of the army. The whole contrast becomes acute once more between the Fuehrer's intuition that we *must* do it this year and the opinion of the army that we cannot do it as yet, as most certainly the Western Powers will interfere and we are not as yet equal to them.

* * * * *

10 August

The army chiefs and the chiefs of the air force groups, Lt. Col. Jeschonnek, and myself are ordered to the Berghof.² After dinner the Fuehrer makes a speech lasting for almost three hours, in which he develops his political thoughts. The subsequent attempts

¹ Konrad Henlein, leader of the Sudeten German Party in Czechoslovakia.

² Defendant Salmuth was also present (c.f. p. 3910). The "Berghof" was Hitler's residence on the Obersalzberg (mountain), above Berchtesgaden in Bavaria.

to draw the Fuehrer's attention to the defects of our preparation, which are undertaken by a few generals of the army, are rather unfortunate. This applies especially to the remark of General von Wietersheim, in which, to top it off, he claims to quote from General Adam, that the western fortifications can only be held for three weeks. The Fuehrer becomes very indignant and flares up, bursting into the remark that in such a case the whole army would not be good for anything. "I assure you, General, the position will not only be held for three weeks, but for three years." The cause of this despondent opinion, which unfortunately enough is held very widely within the Army General Staff, is based on various reasons. First of all, it (the General Staff) is restrained by old memories; political considerations play a part as well, instead of obeying and executing its military mission. That is certainly done with traditional devotion, but the vigor of the soul is lacking because in the end they do not believe in the genius of the Fuehrer. And one does perhaps compare him with Charles XII. And since water flows downhill, this defeatism may not only possibly cause immense political damage, for the opposition between the generals' opinion and that of the Fuehrer is common talk, but may also constitute a danger for the morale of the troops. But I have no doubt that the Fuehrer will be able to boost the morale of the troops as well as of the people in an unexpected way when the right moment comes.

21-26 August

Visit to Germany of the Hungarian Regent [Horthy]. Accompanied by the Prime Minister, the Minister of Foreign Affairs and the Envoy v. Raatz.

They arrive with the idea that in the course of a great war, after a few years, and with the help of German troops, the old state of Hungary can be re-established. They leave with the understanding that we have neither demands from, nor claims against them, but that Germany will not stand for a second provocation by Czechoslovakia, even if it should be tomorrow. If they want to participate at that moment, it is up to them.

Germany, however, will never play the role of arbitrator between them and Poland. The Hungarians agree; but they believe that, when the issue arises, a period of 48 hours would be indispensable to them to find out Yugoslavia's attitude.

* * * * *

6 September

Chief of General Staff, General of Artillery Halder, has a conference with the Hungarian Chief of General Staff Fischer.

Before that he is briefed by me on the political attitude of the Fuehrer—especially his order not to give any hint on the exact moment. The same with Oberquartiermeister I, General v. Stuelpnagel.

* * * * *

8 September

General Stuelpnagel asks for written assurance that the Army High Command will be informed five days in advance if the plan is to take place. I agree and add that the over-all meteorological situation can be estimated to some extent only for two days in advance, and that therefore, the plans may be changed up to this moment (X-day-2).

General Stuelpnagel mentions that for the first time he wonders whether the previous basis of the plan is not being abandoned. It presupposed that the Western Powers would not interfere decisively. It gradually seems as if the Fuehrer would stick to his decision even though he may no longer be of this opinion. It must be added that Hungary is at least moody and Italy—according to Canaris' report—reserved.

I must admit that I am worrying too, when comparing the change of opinion about political and military potentialities, according to directives of 24 June, 5 November 1937, 7 December 1937, and 30 May 1938, with the last statements.

In spite of that, one must be aware of the fact that the other nations will do everything they can to apply pressure on us. We must pass this test of nerves, but because only very few people know the art of withstanding this pressure successfully, the only possible solution is to inform only a very small circle of officers of news that causes us anxiety, and not to have it circulated through anterooms as heretofore.

1800 hours to 2100 hours: Conference with Chief of Army High Command and Chief of General Staff of the Air Force (present were Jeschonnek, Kammhuber, Sternburg, and myself).

We agree about the promulgation of the X-day order (X-1, 4 o'clock) and preannouncement to the air force (X-day-1, 7 o'clock). The, "Y-hour", has yet to be examined; some formations have an approach flight of one hour.

* * * * *

10 September

General Halder back from Nuernberg. He reports that the Fuehrer signed decree subordinating the Reich Labor Service to the Army High Command, as of 15 September. Furthermore it

was decided that the 13th and 2d Motorized Divisions would join the Reichenau Army and their place would be taken by two other divisions.

11 September

In the afternoon conference with State Secretary Jahncke of the Ministry of Public Enlightenment and Propaganda on imminent common tasks.

The joint preparations for refutation of our own violations of international law, and the exploitation of its violations by the enemy, were considered particularly important.

* * * * *

15 September

In the morning conference with Chief of Army High Command and Chiefs of General Staff of Army and Air Force; the question was discussed what could be done if the Fuehrer insists on advancement of the date, due to the rapid development of the situation.

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16 September

General Keitel returns from the Berghof at 1700 hours. He graphically describes the results of the conference between Chamberlain and the Fuehrer. The next conference will take place on the 21st or the 22d in Godesberg.

With consent of the Fuehrer, the order is given in the evening by the Armed Forces High Command to the Army High Command and to the Ministry of Finance, to line up the V.G.A.D. [Reinforced Border Protection Service—Verstaerkter Grenzaufsichtsdienst] along the Czech border.

In the same way, an order is issued to the railways to have the empty rolling stock kept in readiness clandestinely for the strategic concentrations of the Army, so that it can be transported starting 28 September. * * * .

17 September

Contrary to the previous intention to transfer all Sudeten Germans with previous military training to the Replacement Army, the Fuehrer issues order to unite them into a Sudeten German Free Corps. The Armed Forces High Command puts Lt. Col. Koechling (reporter on youth questions) at the disposal of Konrad Henlein as advisor to Henlein.

19 September

Order is given to the Army High Command to take care of the Sudeten German Free Corps.

* * * * *

20 September

England and France have handed over their demands in Prague, the contents of which are still unknown. The activities of the Free Corps start assuming such an extent that they may bring about, and already have brought about, consequences harmful to the plans of the army. (Transferring rather strong units of the Czech Army to the proximity of the border.) By checking with Lt. Col. Koechling, I attempt to lead these activities into normal channels.

Toward the evening the Fuehrer also takes a hand and gives permission to act only with groups up to 12 men each, after the approval of the corps HQ.

21 September

The motorized reinforcements of L. take effect.

1130 hours: Telephone call from the adjutant of the Fuehrer, Captain Engel, (it is submitted during the conference with the chiefs by Captain Eberhardt). "The Fuehrer has received news five minutes ago that Prague is said to have accepted unconditionally."

* * * * *

1245 hours: Department heads are informed and directive is given to continue preparation for, "Green", but nevertheless to get ready with everything necessary for a peaceful penetration. Orders to the Ic and Ib of Naval High Command and Chief of General Staff of the Air Force; General Stumpff to be informed.

* * * * *

22 September

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1920 hours: Ia reports about a telephone call from Godesberg by General von Stuelpnagel on behalf of Keitel. Subject: (a) Date cannot yet be ascertained [X-day]; continue preparations according to plan. In case "Green" occurs, it will not be before 30 September. If it occurs sooner, it will probably be improvised.

* * * * *

25 September

* * *. By order of the Fuehrer, two Death Head SS battalions have moved into the territory near Asch to the rear of the Free Corps.

26 September

Chief of the Armed Forces High Command, acting through the Army High Command, has stopped the intended approach march of the advance units to the Czech border, because it is not yet necessary and because the Fuehrer does not intend to march in before the 30th in any case. Order to approach towards the Czech frontier need be given on the 27th only.

In the evening of the 26th, fixed radio stations of Breslau, Dresden, and Vienna are put at the disposal of the Reich Ministry for Public Enlightenment and Propaganda for interference with possible Czech propaganda transmissions.

Question by department, "Foreign Countries", whether Czechs are to be allowed to leave and cross Germany. Decision from Chief of the Armed Forces High Command: Yes.

1515 hours: The Chief of the Armed Forces High Command informs General Stumpff about the result of the Godesberg conversations and about the Fuehrer's opinion. In no case will X-day be before the 30th.

It is important that we do not permit ourselves to be drawn into military engagements because of false reports, before Prague has replied.

A question of Stumpff about Y-hour results in the reply that on account of the weather situation, a simultaneous intervention of the air force and army cannot be expected. The army needs the dawn, the air force can only start later on account of frequent fogs.

The Fuehrer has to make a decision for the commanders in chief who is to have priority.

The opinion of Stumpff is also that the attack of the army has to proceed. The Fuehrer has not made any decision as yet about commitment against Prague.

2000 hours: The Fuehrer addresses the people and the world in an important speech at the, "Sport Palace".

27 September

* * * * *

1320 hours: The Fuehrer consents to the first wave of attack being advanced to a line from where they can arrive in the assembly area by 30 September.

28 September

Stapf reports about a conference with Goering where the latter states, that a great war can hardly be avoided any longer. It may last 7 years, and we will win it.

1700 hours: Tension relaxes. The Fuehrer has decided on a conference with Chamberlain, the Duce, and Daladier in Munich.

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PARTIAL TRANSLATION OF DOCUMENT 388-PS*
PROSECUTION EXHIBIT 1048

EXTRACTS FROM FILE OF DOCUMENTS ON, "CASE GREEN,"
MAY-SEPTEMBER 1938, KEPT BY HITLER'S ADJUTANT SCHMUNDT

[Item 5]

TOP SECRET

Chief of the High
Command of the Armed Forces
L Ia No. 38/38

Berlin, 20 May 1938
Tirpitzufer 72-76

Matter for Chiefs [Initials] Schm [Schmundt]
Through Officer only

My Fuehrer;

Effective 1 October 1938 (beginning of the new mobilization year for the army), new strategic directives must be issued. The political bases and stipulations of which you, my Fuehrer, yourself intend to make.

For the *meantime*, however, it is necessary that the, "Green" section of the strategic directives be replaced by a new version that takes into account the situation which has arisen as a result of the incorporation of Austria into the Reich and the newly suspected intentions of the Czech General Staff.

A draft of this kind is attached. It has not yet been discussed with the commanders in chief. I intend to do this only after this draft in its fundamental ideas has been approved by you, my Fuehrer, so that it can then be resubmitted to be signed.

Heil, my Fuehrer

[Signed] KEITEL

Written by an officer

L Ia to No. 38/38 Matter for Chiefs
Top Secret

Berlin, 20 May 1938
3 copies — 1st copy

* See "Nazi Conspiracy and Aggression", *op. cit. supra*, vol. III, pp. 305-379, for complete translation of document.

Matter for Chiefs
Through officer only

Draft for *The New Directive, "Green"*

[pencil note] (Provisional)

1. *Political prerequisites* — It is not my intention to smash Czechoslovakia without provocation, in the near future through military action. Therefore inevitable political developments *within* Czechoslovakia must force the issue, or political events in Europe create an especially favorable opportunity, one which may never come again.

2. *Political possibilities for the commencement of the action*— An invasion without suitable obvious cause and without sufficient political justification cannot be considered with reference to the possible consequences of such an action in the present situation. Rather will the action be initiated either—

a. After a period of increasing diplomatic clashes and tension, which is coupled with military preparations and is made use of to push the war-guilt onto the enemy. Even such a period of tension preceding the war will however terminate in sudden military action on our part, which must come with all possible surprise as to time and extent, or

b. By lightning-swift action as a result of a serious incident, through which Germany is provoked in an unbearable way and for which at least part of the world opinion will grant the moral justification of military action.

[Paragraph] b. is militarily and politically the more favorable.

3. *Conclusions for the preparations of, "Case Green"* — which must take into account the possibilities mentioned in 2a and 2b.

a. For *armed war* it is essential to create—already in the first days—a military situation which plainly proves to hostile nations eager to intervene, the hopelessness of the Czechoslovak military situation, and gives the nations with territorial claims on Czechoslovakia an incentive to immediate intervention against Czechoslovakia. In such a case the intervention of Poland and Hungary against Czechoslovakia can be expected, especially if France, due to Italy's clearly pro-German attitude fears, or at least hesitates, to unleash a European war by her intervention against Germany.

It is very probable that attempts by Russia to give military support to Czechoslovakia are to be expected. If concrete successes are not achieved as a result of the ground operations during the first few days, a European crisis will certainly arise.

b. *The propaganda war* must, on one hand, intimidate Czechoslovakia by threats and reduce her power of resistance, on the other hand, give instructions to the national minorities for supporting the armed war and influence the neutrals into our way of thinking.

c. *The economic war* has the task of employing all means at the disposal of economy to hasten the final collapse of Czechoslovakia. The opening of the economic and propaganda war can precede the armed war. I myself will determine the date.

[Initial] Z. [Zeitler]

[For paragraphs 4, 5, and 6, see under Item 11.]

* * * * *

[Item 11]

Supreme Commander of the Armed Forces
OKW No. 42/38 Top Secret Matter for Chiefs L I

Berlin, 30 May 1938
Copy of the 4th copy

Matter for Chiefs
Through Officer only

3 copies—1st copy

Written by an Officer

By order of the Supreme Commander of the Armed Forces, part 2, section II of the directive on the Unified Preparation for War by the Armed Forces dated 24 June 1937, CinC Armed Forces No. 55/37, Top Secret Matter for Chiefs L Ia (two-front-war with main effort in the southeast—deployment, "Green")* is to be replaced by the attached version. Its execution must be assured as from 1 October 1938, at the latest.

Alterations in the other parts of the directives must be expected during the next few weeks.

By Order

Chief of the High Command of the Armed Forces

[Signed] KEITEL

1 Appendix

To:

CinC Army,	copy 1
CinC Navy,	copy 2

* See Document C-175 above in section B2.

CinC Air Force, copy 3
OKW Dept. L [National Defense] copies 4, 5

Certified true copy:

[Signed] ZEITZLER
Lieutenant Colonel, GSC

Top Secret

Appendix to: Supreme Commander of the Armed Forces
OKW No. 42/38 Top Secret Matter for Chiefs L Ia
dated 30 May 38.

Copy of the 4th copy

Written by an officer

Matter for Chiefs
Through officer only

3 copies—1st copy

II. Two front war with main effort in the southeast
(Deployment "Green")

1. *Political prerequisites* — It is my unalterable decision to smash Czechoslovakia by military action in the near future. It is the job of the political leaders to await or bring about the politically and militarily suitable moment.

An inevitable development of conditions inside Czechoslovakia or other political events in Europe creating a surprisingly favorable opportunity and one which may never come again, may cause me to take early action.

The proper choice, determined, and full utilization of a favorable moment is the surest guarantee of success. Accordingly the preparations are to be made at once.

2. *Political possibilities for the commencement of the action*—The following are necessary prerequisites for the intended invasion: (a) suitable obvious cause and, with it, (b) sufficient political justification, and (c) action unexpected by the enemy, which will find him prepared to the least possible degree.

From a military as well as a political standpoint the most favorable course is a lightning-swift action as the result of an incident through which Germany is provoked in an unbearable way for which at least part of world opinion will grant the moral justification of military action.

But even a period of tension, more or less preceding a war, must terminate in sudden action on our part—which must have the elements of surprise as regards time and extent—before the

enemy is so advanced in military preparedness that he cannot be surpassed.

3. *Conclusions for the preparation of, "Case Green".*

a. For the *armed war* it is essential that the surprise element as the most important factor contributing to success be made full use of by appropriate preparatory measures, already in peacetime and by an unexpectedly rapid course of the action. Thus, it is essential to create a situation within the first four days which plainly demonstrates, to hostile nations eager to intervene, the hopelessness of the Czechoslovak military situation and which at the same time will give nations with territorial claims on Czechoslovakia an incentive to intervene immediately against Czechoslovakia. In such a case, intervention by Poland and Hungary against Czechoslovakia may be expected, especially if France—due to the obvious pro-German attitude of Italy—fears, or at least hesitates, to unleash a European war by intervening against Germany. Attempts by Russia to give military support to Czechoslovakia mainly by the air force are to be expected. If concrete successes are not achieved by the land operations within the first few days, a European crisis will certainly result. This knowledge must give commanders of all ranks the impetus to decided and bold action.

b. The *propaganda war* must on the one hand intimidate Czechoslovakia by threats and soften her power of resistance, on the other hand issue directions to national groups for support in the armed war and influence the neutrals into our way of thinking. I reserve further directions and determination of the date.

4. *Tasks of the armed forces*—Armed forces preparations are to be made on the following basis:

a. The mass of all forces must be employed against Czechoslovakia.

b. For the west, a minimum of forces are to be provided as rear cover which may be required, the other frontiers in the East against Poland and Lithuania are merely to be protected, the southern frontiers to be watched.

c. The sections of the army which can be rapidly employed must force the frontier fortifications with speed and decision and must break into Czechoslovakia with the greatest daring and with the certainty that the bulk of the mobile army will follow them with the utmost speed. Preparations for this are to be made and timed in such a way that the sections of the army which can be rapidly employed, cross the frontier at the appointed time, *at the same time*, as the penetration by the air force before the enemy can become aware of our mobilization. "For this, a timetable between

army and air force is to be worked out in conjunction with OKW and submitted to me for approval."

5. *Missions for the branches of the armed forces.*

a. *Army*—The basic principle of the surprise attack against Czechoslovakia must not be endangered by the inevitable time required for transporting the bulk of the field forces by rail nor the initiative of the air force be wasted. Therefore, it is first of all essential to the army that as many assault columns as possible be employed at the same time as the surprise attack by the air force. These assault columns—the composition of each, according to their tasks at that time—must be formed with troops which can be employed rapidly owing to their proximity to the frontier or to motorization and to special measures of readiness. It must be the purpose of these thrusts to break into the Czechoslovak fortification lines at numerous points and in a strategically favorable direction, to achieve a break-through or to break them down from the rear. For the success of this operation, cooperation with the Sudeten German frontier population, with deserters from the Czechoslovak Army, with parachutists or airborne troops, and with units of the sabotage service will be of importance. The bulk of the army has the task of frustrating the Czechoslovak plan of defense, of preventing the Czechoslovak Army from escaping into Slovakia, of forcing a battle, of beating the Czechoslovak Army, and of occupying Bohemia and Moravia speedily. To this end, a thrust into the heart of Czechoslovakia must be made with the strongest possible motorized and armored units, using to the full the first successes of the assault columns and the effects of the air force operations.

The rear cover provided for the West must be limited in numbers and quality to the extent which the present state of fortifications permits. Whether the units assigned thus will be transported to the western frontier immediately or held back for the time being will be decided in my special order. Preparations must, however, be made to enable security detachments to be brought up to the western frontier even during the deployment, "Green." Independent of this, a first security garrison must be improvised from the engineers at present employed in constructing fortifications and from formations of the labor corps. The remaining frontiers as well as East Prussia, can only be weakly protected. But, always depending on the political situation, the transfers by sea, of a part or even the bulk of the active forces of East Prussia, into the Reich must be taken into account.

b. *Air force*—While leaving a minimum of defensive forces in the West, the air force is to be employed in bulk in a surprise at-

tack against Czechoslovakia. The frontier is to be flown over at the same time as it is crossed by the first section of the army (see 5a). The *most important tasks* of the air force is the destruction of the Czechoslovak Air Force and their supply bases within the shortest possible time, in order to eliminate the possibility of its employment as well as that of Russian and French Air Forces, should the occasion arise, against the deployment and penetration of the German Army and against the German soil. Next to this the crippling of enemy mobilization, of the direction of the government and armed forces, as well as the delaying of the deployment of the Czech Army by attacks on communication installations, mobilization, and government centers can be of considerable importance to the initial successes of the army. At points in the frontier area where stronger sections of the Czechoslovak Army or the depth of the defensive system might make the success of the sudden break-through of the German land attack questionable, the employment of adequate bomber forces must be assured. Czechoslovak industrial installations are to be spared as far as the course of operations permits. Retaliatory attacks against the population will be carried out only with my permission. Centers of air defense are to be created throughout Berlin, the central German industrial area and the Ruhr area, and gradually prepared even now in an inconspicuous fashion.

c. Navy—The navy will assist the army operations by employing the Danube Flotilla. For this purpose the flotilla will be under the orders of Commander in Chief of the Army. As regards the conduct of naval warfare, at first only those measures are to be taken which appear to be necessary for the careful protection of the North Sea and the Baltic against a sudden intervention in the conflict by other states. These measures must be confined to the absolutely necessary extent. Their inconspicuousness must be guaranteed. It is of decisive importance that all actions be avoided which might influence the political attitude of the European Great Powers unfavorably.

6. *Tasks of the war economy*—In war economy it is essential that in the field of the armament industry a maximum deployment of forces is made possible through increased supplies. In the course of operations, it is of value to contribute to the reenforcement of the total war economic strength, by rapidly reconnoitering and restarting important factories. For this reason the sparing of Czechoslovak industrial and works installations—insofar as military operations permit—can be of decisive importance to us.

7. All preparations for sabotage and insurrection will be made by OKW. They will be made, in agreement with and according to

the requirements of the branches of the armed forces, so that their effects accord with the operations of the army and air force.

[Signed] ADOLF HITLER

Certified true copy:

[Signed] ZEITZLER
Lieutenant Colonel, GSC

* * * * *

[Item 19] [In Schmundt's handwriting]

Matter for Chiefs

TOP SECRET

DISCUSSION

Nuernberg, 9, 10 September, 2200 to 0330

Present: Fuehrer

General v. Brauchitsch

General Halder

General Keitel

Major Schmundt

Captain Engel

Captain v. Below

General Halder states reasons for operational plan, "Green".

Mission—to prevent retreat of Czech Army from Moravia-Bohemia area. To beat army. To bring about rapid decision. Mission can be accomplished by pincer attack in the direction of Olmuetz and Brno to be undertaken by 2d and 14th Armies. Difficult transport situation in Austria. Therefore, main effort in 2d Army area. Czech frontier can only be lightly held. Withdrawal certain on part of Czech forces. Several defensive lines favorable because of terrain will delay second thrusts and allow time to be gained for a Czech retreat and to retain a rear position. This is to be avoided. The Bohemia and Moravia heights which will confront the attacker in the last phase will favor probable Czech line of action. The pincer attack makes a, "rear attack", from behind these heights possible. This operation will definitely succeed. Reserves at first mainly local. Further reserves near and south of Prague. Opponent won't have time to form further reserves. Opponent does not possess closed armored forces. They are distributed and consist of light units.

2d Army—Weaknesses opposite its sector recognized. Installations only partly completed. Mostly lack armed cupolas. There are

great gaps. Olmuetz will be reached on the second day. Oppa River is no obstacle, can be crossed by tanks as well as infantry. No armored forces opposing. Freudenthal only 35-man garrison? So-called light motorized forces on right flank are no danger. Consist partly of mounted units and will be engaged by adjoining army. Were the attack, against expectations, to fail, then under no circumstances, "bleed to death", before the position. Deployment to be flexible. Rear sections will then be brought up to the points where success has been achieved. Czech fears the Glatz mountain area. Only demonstrations to be staged in the area; there will be a tie-up of Czech forces. To provide cover eastwards tanks will be valuable.

On the rest of the mountain front—IV Corps, and in the frontier sector demonstrations must be staged to tie-up forces.

12th and 14th Armies will work together. Their columns must necessarily support one another during the thrust and cause the front to collapse. Bohemia only weakly occupied at frontier—1 division to 120 kilometers. Operation therefore promising. After the thrust in a northerly direction, 12th Army forces east and, "races", for Bruenn [Brno]. The enemy will not be able to employ reserves according to plan.

10th Army faces Pilsen Riegel [oblique defense line] which is strongly fortified. Bad roads. Tanks must break through here and establish bridgeheads for following up forces. Forces of the next wave will be brought up by truck units. After the 3d and 4th mobilization day, 6 further divisions will be brought up to the 2d and 3d line and can be employed where success is in the balance.

The Fuehrer—We should not plan the action on the operations as we desire them, but take into consideration the probable course of action pursued by the enemy. With regard to his course of action two factors are decisive:

1. At the time of our rearmament between 1934 and 1938 our opponent must have endeavored to secure himself against a tearing of the East-West communication, in his case probably between Troppau and Nikolsburg. Against us this would imply the building of fortifications on the Upper Silesian frontier. In the South an agreement with Austria would achieve a defense north of the Danube, or an advance to the Danube to protect the southern flank.

2. The latter is no longer possible. Therefore, as a result of the situation created in March 1938, it is all the more probable that they have increased their fortifications opposite our 2d Army. The enemy must hold there—otherwise there is no sense in holding the remaining front. Hence here the best regiments and for-

tifications are to be expected. Holding of the front facing the 2d Army will decide the existence or non-existence of Czechoslovakia. There is no doubt that the planned pincer movement is the most desirable solution and should take place. But its success is nevertheless too uncertain for it to be depended on. Especially as a rapid success is necessary from a political point of view. The first 8 days are politically decisive, within that week a far reaching territorial gain must be achieved. Our artillery (210 cm. howitzers) not adequate against fortifications. Where an attack is expected the element of surprise is ruled out. Besides, from experience we know that it is difficult to refrain from an action that achieves only partial success. More and more units are thrown into breaks; and bleeding-to-death, which one wanted to avoid, sets in. (Verdun!!) Tanks are used up and are not available for the subsequent territory-gaining operation. The consequence is that motorized divisions have to advance without tanks ("tables turned"). Also the objectives of the motorized units are not too far-removed and can be gained without fighting, so that they could be equally well gained by infantry troops. The motorized divisions will not be able to influence a decision to any extent. It is the task of motorized forces to bridge areas free of the enemy. Where an attack opens up a large, free space, the commitment of motorized forces is justified. Compare with the use of army cavalry at the beginning of the 1914 war. It is catastrophic for tanks to have to stop and wait for infantry. This contradicts all laws of logic. In the 14th Army sector fortifications can only have been begun since March. Hence, thrust toward Brno will be easier. 2d Panzer Division can therefore be left there. However, this division should operate with the 29th Motorized Division. *Therefore the 29th must not arrive on the evening of the 2d day.* The 2d Panzer Division must constitute the advance column of the 29th Division (Mtz.). Are the road conditions suitable for the 29th? The 13th Division, which has no prospects of success as a mtz. division with the 12th Army, is to be transferred to the Reichenau Army together with 2d Motorized Division. Thus, two chances for victory will be created.

If pincer movement has no success, 10th Army will open way for 12th Army, bringing strong forces into the heart of the country. If both operations are successful, this means the end of Czechoslovakia. In place of the two motorized divisions it is preferable to mobilize two further divisions which are to be brought up in trucks and buses. For the 10th Army the turn northeast toward Prague may become necessary.

General v. Brauchitsch—Employment of motorized divisions was based on the difficult rail situation in Austria and the diffi-

culties in getting other divisions (ready to march) into the area at the right time. In the West, vehicles will have to leave on 20 September, if X-day remains as planned. Workers leave on the 23d, by relays. Specialist workers remain according to decision by Army Group Command 2.

The Fuehrer—Doesn't see why workers have to return home as early as X-11. Other workers and people are also on the way on mobilization day. Also the railway cars, they will stand around unnecessarily later on.

General Keitel—Workers are not under the jurisdiction of district commands in the West. Trains must be assembled.

General v. Brauchitsch—235,000-man Reich labor service will be drafted. Ninety-six construction bns. will be distributed (also in the East). Forty thousand trained laborers stay in the West.

Fuehrer—Trained men should be distributed among newly formed divisions on 2d line.

General v. Brauchitsch—Will be investigated. Implies change of mobilization orders if war orders already in the hands of the people.

General Construction Inspector Dr. Todt (arrived later)—Delays in unloading of material through slow change-over in timetable of railway only from 15 September. Transports must be in their appointed positions by X-11. Air zone to take 2d place to the infantry zone. Build battery positions.

Certified:

[Signed] SCHMUNDT
Major, GSC

* * * * *

[Item 26]

[Teletype]

[Handwritten] TOP SECRET Matter for Chiefs

[Handwritten]

18.9

38

1030

vB

German 2d Army—Cosel—7 inf. divs., 1 armored div., 1 inf. div. on trucks, 1 light div., of these the following arrive on,

1st X-day: Two-thirds of one inf. div., 1 armored div., and 1 inf. div. on trucks.

On 2d X-day: one-third of one inf. div.
On 3d X-day: 1 inf. div.
On 4th X-day: 1 inf. div.
On 5th X-day: 2 inf. divs., as of 7th X-day 1 inf. div. and one light div.

8th Army—Freiburg—4 inf. divs. The following is the timetable for arrival:

On 1st X-day: two-thirds of one inf. div.
On 2d X-day: one-third of one inf. div.
On 4th and 5th X-day: one inf. div. each day.

IV Army Corps—Herrenhut: 2 inf. divs. of which one will arrive on the 1st X-day, the other on the 3d X-day.

10th Army—Schwandorf—3 inf. divs., 1 armored div., 1 light div., 3 mtz. inf. Divs. They will arrive as follows:

On 1st X-day: 1 inf. div. and 1 armored div., 1 light div., 2 mtz. inf. divs.
On 2d X-day: 1 inf. div., 1 mtz. inf. div.
On 4th X-day: 1 inf. div.

12th Army—Passau—7 inf. divs., 1 Mountain div., 1 inf. div. on trucks, [?] Regt. They arrive as follows:

On 1st X-day: 1 inf. div., 1 Mountain div.
On 2d X-day: 2 inf. divs., 1 inf. div. on trucks.
On 4th X-day: 2 inf. divs.
On 7th X-day: 1 inf. div.
On 8th X-day: 1 inf. div.

14th Army—Vienna—1 inf. div., 2 Mountain divs., 1 armored div., 1 light div., 1 mtz. inf. div. [?] mtz. They will arrive as follows:

On 1st X-day: One-third of 1 inf. div., 1 armored div., 1 mtz. inf. div.
On 2d X-day: Two-thirds of one inf. div., 1 light div.
On 3d X-day: 2 Mountain divs. END

Reich War Ministry/Naval Communication Service

TOP SECRET

18 September

Renewed attention is called to strictest observance of secrecy regarding following message. Noted. Message begins—
[There follows a repetition of the above telegram in its exact form.]

Any questions?

[Item 27]

Army Appointments Held

Army Group Command. CinC: Lt Gen. of Inf. Adam
Chief of Staff: Lt Gen. of Inf. Wiewersheim
Ia: Lt Col. Mueller

1st Army Command. CinC: Lt Gen. of Arty. Beck
Chief of Staff: Maj Gen. v. Apell
Ia: Col. v. Greiffenberg

2d Army Command. CinC: Gen. v. Rundstedt
Chief of Staff: Brig Gen. v. Salmuth
Ia: Lt Col. Hasse

3d Army Command. CinC: Lt Gen. of Arty. v. Kuechler
Chief of Staff: Brig Gen. Hollidt
Ia: Lt Col. Wagner

4th Army Command. CinC: Gen (at disposal) v. Hammerstein
Chief of Staff: Maj Gen. Viebahn
Ia: Lt Col. Metz

5th Army Command. CinC: Lt Gen. of Inf. Liebmann
Chief of Staff: Brig Gen. v. Sodenstern
Ia: Col. Duevert

7th Army Command. CinC: Lt Gen. of Inf. (at disposal) Baron Zeutter v. Loetzen
Chief of Staff: Brig Gen. Model
Ia: Col. v. Witzleben

8th Army Command. CinC: Gen. v. Bock
Chief of Staff: Brig Gen. Felber
Ia: Col. Hauffe

10th Army Command. CinC: Lt Gen. of Arty. v. Reichenau
Chief of Staff: Brig Gen. Bernard
Ia: Col. Dostler

12th Army Command. CinC: Gen. (at disposal) Ritter v. Leeb
Chief of Staff: Maj Gen. v. Lewinski, (known as v. Manstein)
Ia: Lt Col. Blumentritt

14th Army Command. CinC: Lt Gen. of Inf. List
Chief of Staff: Maj Gen. Ruoff
Ia: Col. Woehler

* * * * *

Top Secret

Memorandum

At 1300, 27 September the Fuehrer and Supreme Commander of the Armed Forces ordered the movement of the assault units [Sturmabteilungen] from their exercise areas to their jumping-off points.

The assault units (about 21 reinforced regiments, or 7 divisions) must be ready to begin the action against, "Green", on 30 September, the decision having been made one day previously by 1200 noon.

This order was conveyed to General Keitel at 1320 through Major Schmudt.

[Handwritten note by Schmudt:]

SCHM [SCHMUNDT]

* * * * *

PARTIAL TRANSLATION OF DOCUMENT C-136
PROSECUTION EXHIBIT 1056

FUEHRER ORDER, 21 OCTOBER 1938, CONCERNING THE FUTURE
TASKS OF THE ARMED FORCES

Top Secret

Through Officer Only

The Fuehrer and Supreme Commander of the Armed Forces

Berlin, 21 October 1938

10 copies—3d copy

OKW L Ia No. 236/38 Top Secret

The future tasks for the armed forces and the preparations for the conduct of war resulting from these tasks will be laid down by me in a later directive.

Until this directive comes into force, the armed forces must be prepared at all times for the following eventualities:

1. The securing of the frontiers of Germany and the protection against surprise air attacks.
2. The liquidation of the remainder of Czechoslovakia.
3. The occupation of the Memel area.

1. *Securing the Frontiers of Germany and Protection
against Surprise Air Attacks*

* * * * *

2. *Liquidation of the Remainder of Czechoslovakia*

It must be possible to smash at any time the remainder of Czechoslovakia if her policy should become hostile towards Germany.

The preparations to be made by the armed forces for this contingency will be considerably smaller in extent than those for "Green"; they must however, guarantee a continuous and considerably higher state of preparedness, since planned mobilization measures have been dispensed with. The organization, order of battle, and state of readiness of the units earmarked for that purpose are in peacetime to be so arranged for a surprise assault that Czechoslovakia herself will be deprived of all possibility of organized resistance.

The object is the swift occupation of Bohemia and Moravia and the cutting off of Slovakia. The preparations should be such, that at the same time the measures of frontier defense in the West can be carried out.

The detailed mission of army and air force is as follows:

a. Army—The units stationed in the vicinity of Bohemia-Moravia and several motorized divisions are to be earmarked for a surprise type of attack. Their number will be determined by the forces remaining in Czechoslovakia; a quick and decisive success must be assured. The deployment and preparations for the attack must be worked out. Forces not needed, will be kept in readiness in such a manner that they may be either committed in securing the frontiers or sent after the attack army.

b. Air force—The quick advance of the German Army is to be assured by an early elimination of the Czech Air Force.

For this purpose the commitment in a surprise attack from peacetime bases has to be prepared. Whether for this purpose still stronger forces may be required can be determined from the development of the military situation in Czechoslovakia only. At the same time a simultaneous assembly of the remainder of the offensive forces against the West must be prepared.

* * * * *

Signed: ADOLF HITLER

Certified:

[Signed] KEITEL

Distribution:

High Command of the Army	1st copy
Reich Minister of Aviation and CinC Air Force	2d copy
High Command of the Navy	3d copy
OKW (including reserve),	4th to 10th copy

**TRANSLATION OF DOCUMENT C-138
PROSECUTION EXHIBIT 1057**

**ORDER OF THE HIGH COMMAND OF THE ARMED FORCES,
17 DECEMBER 1938, CONCERNING THE FUEHRER
ORDER OF 21 OCTOBER 1938**

Written by an Officer

Berlin, 17 December 1938

High Command of the Armed Forces
Nr. 248/38 Top Secret, Matter for Chiefs
Armed Forces Operations Office, L Ia

[Stamp]

High Command of the Navy
AI Op. 121/38
Received: 20 December 1938
Enclosures
10 copies—4th copy

[Stamp]

Matter for Chiefs
Through officer only

Subject:

The Fuehrer and Supreme Commander of the
Armed Forces—OKW No. 236/38
Top Secret, Matter for Chiefs L Ia,
dated 21 October 1938

2. Corollary to directive of 21 October 1938

Reference: "Liquidation of the Rest of Czechoslovakia", the
Fuehrer has given the following additional order:

The preparations for this eventuality are to continue on the
assumption that no resistance worth mentioning is to be ex-
pected.

To the outside world too, it must clearly appear that it is merely
an action of pacification and not a warlike undertaking.

GERMANY (Combat)

Subject:

Occupation of Bohemia and Moravia
(Supplement to Report No. 16,520)

The following translated extract of an article which appeared in the, "Wehrmacht", of 29 March on the occupation of Bohemia and Moravia by German troops on 15 March, it is believed will be of some interest in throwing further light on the operation of the German Army at that time:

"From Silesia, Saxony, Northern Bavaria, and the East Mark [Ostmark], seven army corps moved on the morning of 15 March past the former Czech border. On the evening of 14 March parts of the VIII Army Corps and the SS Leibstandarte Adolf Hitler, under the command of the commanding general of the VIII A.C., had already occupied the industrial centers of Witkowitz and Maehrisch-Ostrau [Moravska-Ostrava].

From: M.A., Berlin, Report 16,682.

Date: 24 May 1939.

"The troops of Army Group 3, under the command of General of Infantry Blaskowitz, were to take Bohemia under their protection; while the troops of Army Group 5, under General of Infantry List, were given the same mission for Moravia.

"For this purpose parts of the air force (particularly reconnaissance planes and antiaircraft artillery) as well as parts of the SS Verfuegungstruppen were placed at the disposal of the two army groups.

"On the evening of 14 March, the march order was received by the troops. On 15 March at 6 a.m., the columns moved past the border and then moved on with utmost precision. In spite of the snow and ice, the most important cities of Bohemia and Moravia were in German hands on the evening of 15 March, and the Fuehrer and Supreme Commander of the Armed Forces was able to set up his headquarters in Prague under the protection of German troops.

"He himself expressed his appreciation to the troops for their bearing on this march through snow and ice. Anyone who has himself been a soldier, will know what it means to march through snow and ice, particularly when the snow at times is up to a meter high, or to drive in column in such weather. Furthermore the fact must be taken into consideration that the troops were called in without previous mobilization and that the recruits had only received four months training.

"On 15 March the air force also had to suffer from the bad weather conditions. The contemplated employment of large air

units had to be waived in consideration of the snow storms prevailing. In spite of these weather conditions, however, the reconnaissance planes fulfilled their missions. As soon as the weather cleared up a little, on 16 March, strong air units of Air Fleet 1 (commanding general: General of Aviation Kesselring) and 3 (commanding general: General of Aviation Sperrle), and Air Command Austria (commanding general: Lt. General Loehr) fulfilled their mission over Bohemia and Moravia, so that the strength of the German Air Force was also demonstrated in practice to the Czech nation.

"On 16 March the first air squadrons landed on the Czech airfields which had previously been occupied by the army."

Percy G. Black
Major, F.A.
Acting Military Attaché
Report 16,682.

3. DEFENSE TESTIMONY

PARTIAL TRANSLATION OF DOCUMENT SPERRLE 79 SPERRLE DEFENSE EXHIBIT 79

SWORN DEPOSITION OF KURT VON SCHUSCHNIGG, 14 JUNE 1948,
ANSWERING INTERROGATORIES SUBMITTED BY COUNSEL FOR
THE DEFENDANT SPERRLE AND BY THE PROSECUTION*

INTERROGATORIES TO BE PROPOUNDED TO KURT VON SCHUSCHNIGG STIPULATION

It is agreed between Dr. Kurt Gollnick on behalf of the defendant Hugo Sperrle, and Baucum Fulkerson on behalf of the prosecution, that the attached interrogatories and cross-interrogatories shall be forwarded to Dr. Kurt von Schuschnigg and that the answers which he makes thereto shall be duly signed and sworn to before some officer authorized to administer oaths.

It is understood that counsel for the prosecution or for the defendant Hugo Sperrle, both reserve the right to object to any of the questions or answers on the ground of incompetency, irrele-

* The interrogatories were accepted in evidence by this Tribunal on 22 July 1948 (Tr. pp. 8305-8309). Before reading them into the record, Dr. Gollnick, counsel for defendant Sperrle, made the following statement:

"Pursuant to an agreement with the prosecution, Federal Chancellor von Schuschnigg was interrogated in the following manner. He made an affidavit in St. Louis in the United States, where he is residing at present, replying to questions which were put to him both by the defense and the prosecution. This document is available to me now."

Presiding Judge Young: "Do you have any comments to make on that document?"

Dr. Gollnick: "I have no comments to make. The document speaks for itself (Tr. pp. 8302-8305).

Thereupon, the document was copied into the record in accordance with the order of the Tribunal.

vancy, or immateriality at the time the deposition is offered in evidence.

[Signed] BAUCUM FULKERSON

[Signed] KURT GOLLNICK

INTERROGATORIES

(1) Q. Did you make a visit to Hitler at Obersalzberg on 12 February 1938?

DR. VON SCHUSCHNIGG: Yes, I did.

(2) Q. Did you have a long political conversation with Hitler in his study?

A. Yes, I had one.

(3) Q. Was General Sperrle present at any part of this political conversation between you and Hitler?

A. No. He was not present.

(4) Q. During a recess in the conference, were you brought together with General Sperrle and von Reichenau in the anteroom of the Berghof?

A. The Generals were present at my arrival, during lunch, after lunch in the anteroom where I was waiting for the talk with Hitler to be continued, and at my departure.

(5) Q. Did you speak with them, and what was the subject of the conversation?

A. I had only noncommittal, strictly unpolitical conversation with them and tried to discuss some military matters, new guns, new armored cars, etc.

(6) Q. Did you ask General Sperrle why he had been invited to Obersalzberg on this occasion, or did he volunteer information about this to you?

A. Either General Sperrle or General v. Reichenau (perhaps both of them) declared spontaneously after lunch that they had no idea at all why they were summoned today to the Berghof by the Fuehrer. They added that they were there for the first time; I believe it was true.

(7) Q. What did he say the reason was?

A. (Answer as to (6).)

(8) Q. Did you meet General Sperrle at lunch and later at tea?

A. I met General Sperrle at lunch and later on, during a one hour recess in the conference. We were waiting together in an anteroom with other German officials (e.g., Dietrich,). Likewise

present was an Austrian emigrant (Spitzky) in SS uniform, which seemed to me to be significant for the whole staging.

(9) Q. Did General Sperrle talk to you on these occasions, and if so, about what?

A. The Generals—as well as myself—were rather reticent. I do not think, I talked more than a few conventional words—if at all—on this last or the former occasions. I was more concerned with General Reichenau whom I knew to be our most outspoken adversary among leading German Generals.

(10) Q. Did he [Sperrle] discuss his experiences in Spain and the cruelties of the Red troops there?

A. He mentioned during the general conversation his activities as commander in chief of the Condor Legion. We had no discussion about the details, but as far as I remember, he touched on some cruelty reports; particularly he stressed the importance of anti-aircraft artillery for ground fighting.

(11) Q. Did you ever talk with General Sperrle again?

A. I did not. But it is possible that some leading officers of the then Austrian Air Force (Loehr) discussed with him afterwards the new type of anti-aircraft gun we were then looking for.

(12) Q. When and what about?

A. I never met him again.

CROSS-INTERROGATORY

(1) Q. When were you first informed that General Sperrle and von Reichenau would be at the Berghof?

A. As I crossed the Austrian-German border, near Berchtesgaden, on 12 February 1938 in the morning.—von Papen informed me about it; General Keitel was likewise to be present.

(2) Q. Had you ever met either one of them before?

A. No, never.

(3) Q. Were they personal friends of yours?

A. No, none of them.—I took General Reichenau for a clearcut enemy and active Nazi Party member, whereas the others seemed to me to be indifferent.

(4) Q. Did it occur to you beforehand that Hitler might have invited these men to the Berghof for the specific purpose of intimidating you by creating a warlike atmosphere?

A. I had not the slightest doubt about Hitler's intentions from the very moment I learned about the presence of the generals at the Berghof; that means, before I met them personally. I hoped Hitler tried to bluff by his intimidating.

(5) Q. Did anything that Hitler or the three generals did, give you this impression as the conference progressed?

A. Yes, very definitely! Hitler made it clear what he had in mind as to his military plans against Austria. General Keitel was called on the scene in a critical moment and left no doubt about his blindly obeying the Fuehrer. The other generals did not come into action.

(6) Q. Was it not a rather unusual circumstance at a conference between two heads of State, for three high ranking generals to be present?

A. It was perfectly clear to me what Hitler meant with his gesture; it was more than a challenge, it was an unmistakable threat. But I feel pretty sure that Sperrle did not know anything beforehand when he was summoned on this day.

(7) Q. Did you know before you went to Obersalzberg that Sperrle had been commander of the Condor Legion in Spain?

A. No, I learned it during the conference.

(8) Q. Had you read of the destruction of the Basque City of Guernica by German military aircraft in April 1937?

A. No. I did not. At least I cannot remember to have read about it.

[Signed] KURT V. SCHUSCHNIGG

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON LEEB*
DIRECT EXAMINATION

* * * * *

DR. LATERNSENER (counsel for defendant von Leeb): Now, let us deal with the various campaigns and the so-called campaigns. First of all we shall deal with Austria. During the invasion into Austria, did you participate?

DEFENDANT VON LEEB: No, I was retired.

Q. And what about the occupation of the Sudetenland?

A. At that time I was committed as a commander of an army, one of those that marched into the Sudetenland from the south.

Q. During the cross-examination of General Halder, the prosecution mentioned the so-called Working Staff Leeb. Is that how that staff was called.

A. Whether that staff bore my name, I cannot recall, but such a staff did exist.

* Complete testimony is recorded in mimeographed transcript, 19-22 April 1948; pp. 2277-2534, 7770-7771.

Q. And what tasks did it have? What kind of a staff was it? What do you know about it?

A. The situation was as follows: The High Command of the Army had prepared plans for placing troops in readiness for marching into the Sudetenland. The 12th Army belonged to these troops and command agencies. There was no such thing as a 12th Army during peacetime. The VII Corps Hq. was not to be burdened with these preparational tasks and therefore a general staff officer was transferred to the VII Corps Hq. in Munich and this officer from that time on dealt with the orders which came from the High Command of the Army. These orders referred to the placing in readiness of these formations for the entry into the Sudetenland; they covered the area of the 12th Army.

When I personally first gained knowledge of this, I can no longer state here. During these months I was on leave in the mountains, and to the best of my recollection it was during the month of August that I came to Munich. There I had this general staff officer report to me orally about the preparations or the preparation orders which he had elaborated for this purpose, and I discussed them with him. Whether I effected any corrections I can no longer tell you now. Then when I returned to Munich from my sojourn in the mountains, I took an interest in these preparations and followed them up, and I continued to participate in the working out of the preparation for the 12th Army formations. That took place during the months of August and September. In order to take over the command, I came to Passau at the end of September.

Q. At that time did one expect the possibility of an armed conflict?

A. No. The situation was as follows: this Sudetenland, which was to be occupied by our forces, was a border area in my estimation and to the best of my memory it was 20 to 30 kilometers deep. Only that area was to be occupied. In the border area, there were, according to the intelligence we had, either no Czech troops at all, or if any were stationed in that area, they were parts of the 5th Czech Division.

We assumed it to be certain that these elements of the 5th Czech Division, if they were stationed there at all, would probably withdraw to the rear areas, in case of our advance. That was the military situation as I found it towards the end of September when I took over the command in Passau. Passau is situated on the Danube in Lower Bavaria.

Q. And what was the situation at the time of the invasion?

A. The situation then developed in the following way: As is well known, the two interested Western Powers gave their agreement and consent through their chiefs of government, Monsieur Daladier and Mr. Chamberlain and that is how this invasion was carried out in a peaceful manner. No shot was fired. Probably no shot would have been fired even if this agreement had not been reached prior to the invasion.

Q. At the time of the invasion, did you think that you were participating in an illegal aggressive war, as it is being called by the prosecution?

A. No soldier would have thought that.

Q. Field Marshal, the indictment in point 6 charges you with having participated on 10 August 1938, in one of Hitler's conferences, together with other generals, in Berchtesgaden. In this conference it is said a plan of aggressive war against Czechoslovakia was discussed. Were you present at a conference on 10 August 1938?

A. No.

Q. Were you in retirement at that time?

A. Yes, I was retired, and I was in Munich; and at that particular time, I was in the archives in Munich.

Q. Did you participate in any way whatsoever in the planning, initiation, and execution of the occupation of Czechoslovakia in spring of 1939?

A. No.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Is it known to you that that rearmament was in violation of the Versailles Treaty?

DEFENDANT VON LEEB: No. I did not regard it as a violation of the Versailles Treaty because the other states had not disarmed. They had first to disarm themselves. After we had disarmed, the other powers should have followed suit, and that they did not do. Therefore, the Reich government took the right upon themselves to rearm in their turn.

Q. You explain Germany's rearmament on the ground that its borders were unguarded and historically there was much to fear, especially in the East. Is that correct?

A. Yes.

Q. How is it that the famous West Wall wasn't built in the East instead of the West?

A. You would have to ask the Commander in Chief of the German Army for an answer to that. I don't know. As for the rest, as far as I know, fortifications were also built in the East.

Q. No permanent fortifications to compare with the West Wall were there, Witness?

A. I don't believe so.

Q. Do you know what it was that Hitler and the Military feared which led them to build the West Wall?

A. The West Wall was a purely defensive measure. We feared an attack.

Q. From whom?

A. From the western opponents. If they existed, I don't know. It was purely a defensive measure.

Q. Witness, wasn't the reason you feared this attack from the West and built the West Wall there because it was well recognized that the western opponents, as you described them, might not tolerate German aggression in the East against Czechoslovakia and Poland? Isn't that the reason the West Wall was built?

A. I don't know that.

Q. Did you ever attend a Nazi Party Day Rally?

A. You mean in Nuernberg?

Q. Yes.

A. As far as I recall I attended it twice.

Q. What years?

A. I can't tell you that now.

Q. Do you remember seeing your picture at one of the rallies in the film which was exhibited to the Tribunal?

A. Yes, I did.

Q. Are you familiar with the Fuehrer directives for the unified preparation for war by the armed forces which were issued periodically?

A. I don't know which directives you mean.

Q. You will recall that it was customary that so-called directives for the unified preparation for war were issued periodically, their number in the record beginning in 1937, and continuing through

the following years. These directives were issued by the OKW to the other services. I am asking you if you received these directives from the OKH?

A. No. I can't recall. Besides I retired in February 1938.

Q. You don't recall having seen any in connection with the possibilities of a conflict with Czechoslovakia or Austria, Case Otto and Case Green?

A. No.

Q. Did you have anything whatever to do with Case Otto?

A. What is Case Otto?

Q. That is in connection with the Austrian matter.

A. No.

Q. You testified that you were not informed of the conference of 5 November 1937, between Hitler, Fritsch, Blomberg, Goering, Raeder, and Neurath.* There is an entry in the Jodl diary which is in evidence, 1780-PS, Prosecution Exhibit 1034, which states that Jodl's department intended to put the ideas expounded in the conference on paper and transmit them to the services. Do you know whether that was done?

A. I don't know that.

Q. Is the code name, "Case Red", familiar to you?

A. No.

Q. You don't recall that that was the plan of attack with the main effort in the West with Czechoslovakia as a subsidiary opponent?

A. No.

Q. You testified you were asked to take some assignment by Halder after your resignation. I didn't understand what that assignment was. Will you please tell me.

A. It was provided to institute a commission for drafting regulations and I was to be the chairman. That is what I was told at a later date.

Q. Drafting what sort of regulations?

A. I don't know that, military regulations, though.

Q. You were made available to Corps Hq. VII in Munich on 1 July 1938, were you not?

* Notes on this conference are reproduced in section VI B2 as Document 386-PS, Pros. Ex. 1033.

A. That is contained in the document which was read here. Whether I was informed of this, that I was to be made available on July, I don't know. Upon inquiry I replied that I was prepared, but when I was told about it I don't recall.

Q. Were you familiar with the Fuehrer's assurances to Czechoslovakia after the Austrian *coup d'état*, 15 March 1938?

A. No.

Q. You don't remember?

A. I cannot recall it. I had no official service contact. I only learned what every German could read about it in the newspapers.

Q. And didn't that suggest to you—that these assurances could be read in the newspapers—that he issued a public assurance to Czechoslovakia?

A. In that case I did read them.

Q. You say that you didn't expect war in connection with Czechoslovakia because it was only planned to occupy the Sudetenland; is that right?

A. Yes.

Q. And it was your conviction, that there would probably have been no war, even without the Munich agreement?

A. According to the situation on my front, that was to be assumed.

Q. Now, you mentioned the Beck memorandum which Halder testified about, but I don't recall whether you stated you were familiar in any way with that memorandum?

A. I did not know the memorandum; it was written only after I had retired.

Q. And Halder or none of the other anti-Nazi generals informed you about the memorandum or about their view of the seriousness of the situation in connection with Czechoslovakia?

A. No.

Q. And I take it you weren't informed of the OKW directive of 30 May 1938, announcing Hitler's decision to smash Czechoslovakia in the near future?

A. No.

Q. But you did participate in the military planning of the attack on Czechoslovakia, didn't you, Witness?

A. No.

Q. Well, who was going to lead it—who was going to command the 12th Army?

A. I, myself.

Q. And you want the Tribunal to understand that although you were the commander of the 12th Army, that you had nothing whatever to do with the preparation of the part that the 12th Army was to play in the invasion of Czechoslovakia?

A. No. I didn't say that. Yesterday I related in some detail that this working staff which was to bear my name was formed, and that as far as I recollect, it was in the month of August. I was informed, and thereafter, I took part in these preparations by virtue of orders issued by the OKH; the OKH had planned this campaign and in relation to this planning, they issued orders to the subordinate agencies and the 12th Army also belonged to these subordinate agencies; these orders said that preparations were to be made for an invasion, and then the 12th Army worked out its preparations within the scope of these directives.

Q. Well, there was a necessity for you to do some work in connection with the use of the 12th Army in this planned attack, was it not, Witness?

A. Certainly.

Q. And the Working Staff Leeb was not formed without your knowledge, was it, Witness?

A. I don't know when I learned about its formation.

Q. And this Working Staff Leeb was not formed in July 1938, when you were made available to the VII Corps?

A. I can't tell that, because I don't know it any longer.

Q. Who was on the staff with you—the Working Staff Leeb?

A. A Major Blumentritt.

Q. Is he the only other one?

A. There was nobody else as far as I recall; there might have been some more personnel, but I don't know.

Q. Who became your chief of staff of the 12th Army?

A. The then General von Manstein.

Q. What was the campaign planned for the 12th Army; what was your objective?

A. The advance into the border areas called the Sudetenland.

Q. What army was to be on your left, Witness, do you remember?

A. No, I don't know that any longer.

Q. Don't you recall that your 12th Army was to work together with List's 14th Army?

A. The 14th Army of List was on my right.

Q. And the objective of the 12th and 14th Armies was the occupation of the Sudetenland?

A. It was the objective of the 12th Army, and I assume also for the 14th Army.

Q. Witness, tell the Tribunal where the city of Brno is in Czechoslovakia.

A. I don't know. It was not in my sector. Krummau was in my sector. Brno is further to the northeast.

Q. Well, let's look at a document on this campaign and see what we can find out. Witness, I am having handed to you Document 388-PS, Prosecution Exhibit 1048,* This is the so-called, "Schmundt file". The document which I am asking you to look at is a summary of a conference in Nuernberg on 9 and 10 September 1938, between the Fuehrer, Brauchitsch, Halder, Keitel, Schmundt, and two other officers, in which General Halder outlines the, "Plan Green", that is the plan of attack on Czechoslovakia. Now, I will ask you to read the first sentence of the document, General, where it says—where General Halder states the reasons for operational Plan Green, and the mission is noted to prevent retreat of the Czech Army from the Bohemia and Moravia area, to beat the army, to bring about rapid decision. Was it not known to you to be the objective of this attack in which the 12th Army was to participate?

A. I recall that I only had to occupy the Sudetenland and was not to exceed this territory.

Q. Witness, look at the third paragraph of this document—continuing with General Halder's statement, where he says: "The 12th and 14th Armies will work together; their columns must necessarily support one another during the thrust and cause the front to collapse. Bohemia only weakly occupied at frontier. One division to 120 kilometers; operation, therefore, promising. After the thrust in a northerly direction, the 12th Army forces east and races for Brno; the enemy will not be able to employ reserves according to plan." Witness, wasn't the objective of the 12th Army in this plan of attack on Czechoslovakia to outflank the Czech Armies from behind, prevent their retreat from Bohemia and Moravia and destroy them in the field?

A. I can only recall that I had the order to march into the Sudetenland.

* Document reproduced above in section C2.

Q. Witness, the Munich agreement was only a faint glimmer in the skies as late as 21 September. During August and September, when you were planning this attack on Czechoslovakia, you didn't know that there was to be a Munich agreement; and, I put it to you that the plan was not to occupy Sudetenland, but to smash Czechoslovakia, and, I ask you if your 12th Army didn't plan to participate and play an important part in that campaign.

A. I have said several times already that I don't know any longer. I can only recall that I received the order to march into the Sudetenland.

Q. But you got that order late in September, about 29 September, you did get such an order; we are not concerned with that now. I am asking about the plan of attack on Czechoslovakia in August and early September. Can you remember nothing about that?

A. I don't know any longer that I had the order to thrust towards Brno; I don't know; it's now 10 years ago.

Q. Well, Witness, I don't want to ask you to do something you can't do. If you can tell me that your mind is a complete blank on the part that you took in the Czech matter, why, we can proceed to something else.

A. If I would know these facts, I would state them here, because in that case I would merely have accepted an order which I was given. If that was a crime, then I was a criminal. But, I cannot state here, facts which I do not know any more; if you submit proof that this order was issued to me, and directed to me, then, I presumably executed those orders; that is they were not executed but I worked them out, because they actually were never put into execution. At that time I was not prepared not to execute an order, and, if you considered me to be a criminal for this, then, of course you are absolutely at liberty to do so.

Recess

THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE YOUNG: You may proceed.

MR. MCHANEY: Witness, we had been discussing the plan of attack on Czechoslovakia. Do you recall having participated in any conferences with the commanders of the other armies in connection with that plan of attack?

DEFENDANT VON LEEB: No.

Q. You testified that you did not attend the Fuehrer conference on 10 August 1938. I think that is undoubtedly correct for

the reason that the chiefs of staff of the various armies attended. I would like to ask you if your chief of staff, Manstein, attended that meeting.

A. I don't know that any longer.

Q. Don't you recall that matters had proceeded so far that the target date of the attack had been set for 1 October 1938?

A. That could be correct.

Q. And don't you recall that by the third week in September you had already received deployment orders for your 12th Army?

A. The 12th Army didn't have to be formed; it consisted of troops which had already existed in peacetime. Only the headquarters of the 12th Army might have had to be formed.

Q. I don't think you understood the question, Witness. I asked you whether you had not received deployment orders for the 12th Army by the third week in September?

A. These orders for the deployment of the army I received already in August, to the best of my recollection.

Q. Do you recall, and can you tell the Tribunal, the comparative size of the 12th Army in relation to the other armies which were to participate in the Czech attack?

A. As far as I recollect, there were two corps headquarters, and about four divisions. There was the headquarters of the VII Corps, and the headquarters of the IX Corps.

Q. Now, Witness, in order to avoid confusion in the transcript, we should clearly distinguish now between the occupation of the Sudetenland pursuant to the Munich agreement, and the plan of attack against Czechoslovakia which had been under way since June 1938. Now, my question was: Can you recall the size of the 12th Army as it was set up to participate in the attack, as compared to the other armies which were to participate in the attack?

A. As far as I recollect, nothing changed in the size. One division which was intended for the invasion could no longer be brought up in time, so that there was one division less for the invasion than had originally been intended; that is how I remember it to have been, and I believe the missing division was the 5th Division; in peacetime it was stationed at Ulm.

Q. Don't you recall, Witness, that the 12th Army had nine divisions and was the second largest army to participate in the planned attack, second only to Rundstedt's 2d Army with ten divisions?

A. I don't think that is correct.

Q. Well, will you look at the document which I have marked in the book before you, the first place marked.

This again, Your Honors, is Document 388-PS, Prosecution Exhibit 1048.

Witness, this is a teletype dated 18 September, before the Munich agreement, and it lists, does it not, the five armies which were to participate—

A. Yes.

Q. In the attack planned against Czechoslovakia; isn't that right?

A. Yes.

Q. And does it not also give the time of deployment for each of the armies, that is, five days before "X" day, the attack date, four days before the attack date, and so on; the order in which the divisions were to be brought up from the points of attack.

A. Yes. That is right.

Q. Now,—

A. It says here 12th Army first day, one infantry division and one mountain division; second day—

Q. And will you hurriedly count, Witness—

A. Yes?

Q. And will you hurriedly count and tell the Tribunal if the 12th Army didn't have nine divisions?

A. Seven infantry divisions, one mountain division and one division on trucks—yes.

Q. And the 2d Army under Rundstedt is listed there, Witness, with ten divisions; is it not?

A. Which one, the 2d? Seven infantry divisions; one Panzer division, one infantry division, one light division, seven, eight, nine, ten; that is right.

Q. And that 2d Army was under Rundstedt?

A. I don't know that.

Q. Do you remember whether Bock commanded the 8th Army, which is also listed here with four divisions?

A. No.

Q. Do you recall that Reichenau commanded the 10th Army, listed with eight divisions?

A. I can only remember that List was on the right of me with the 14th Army.

Q. And has your memory been sufficiently refreshed, Witness, by these documents now to be able to affirm to the Tribunal that your plan of attack of the 12th Army envisaged a thrust into Bohemia and Moravia, towards Brno in order to outflank the fortifications and Czech troops on the border of Bohemia and Moravia?

A. I don't know that any longer. I remember that the IX Corps with two divisions was subordinate to me. It was, to the best of my recollection, the division from Linz and another division from the IX Corps; the VII Corps with the 7th Division and the First Mountain Division; and then I seem to remember that there was the 5th Division and in addition an SS regiment. There weren't any more there either, and, as far as I remember, the 5th Division wasn't even planned for the deployment at all. It did not arrive in time so that actually only four divisions were involved altogether. Then there was one more division with motor vehicles, but as far as I remember, it did not arrive in time either. That is all I remember about that.

Q. Well, Witness, did you regard this operation against Czechoslovakia, in which your 12th Army was to participate, as being something in the nature of a defense? What was your attitude toward this operation?

A. I have said now quite often that I can remember that I received the order to march into the Sudetenland.

Q. Yes. That was on 30 September. Now, Witness, in order not to take up any time, can you perhaps tell me the commanders of the army group commands in October 1938? Do you remember, for example—

A. For that invasion?

Q. No.

A. I don't even think there were any army group commands then.

Q. Well, Witness, will you first tell me how long you were in Czechoslovakia?

A. Until approximately the middle of October, the 15th or 16th of October. I cannot remember the exact date.

Q. Now, will you turn to the document in this same exhibit at the second place marked. Now, Witness, this is a teletype signed by Keitel, dated, I believe, 11 October.

A. Yes, the 11th of October—

Q. 1938, in which various questions are being propounded, the first one being what reinforcements are necessary in the present

situation to break all Czech resistance in Bohemia and Moravia. Now, this was at a time after the peaceful occupation of the Sudetenland, and the answer to that questions reads: "Army suggests: Army Group 5, nothing. Army group has special duties; one armored brigade, and two mobile divisions. Army Group 4, nothing. Army Group 3, one mobile division, and Army Group 1, one division ready to march and one mobile division." Will you tell the Tribunal who the commanders of each of these army groups listed here were on 11 October?

A. I don't know. I know nothing about army groups, nor can I envisage how four or five armies came under five army groups. This whole list is sent from the OKW to the OKH, and that is something of which I know nothing. Perhaps it was intended to form them in that way, but I don't know. I cannot imagine what is meant. At least, I personally was not subordinate to any army group. I was subordinate to the OKH directly. I received my orders from the OKH. I see no explanation for this document.

Q. Well, Witness, were you advised of Hitler's intention to smash the rest of Czechoslovakia, that is Bohemia and Moravia, after the occupation of the Sudetenland?

A. No. After the occupation of the Sudetenland, I was in retirement. I handed over my position to somebody else and to the best of my recollection, the headquarters of the 12th Army was even dissolved.

Q. Well, when the occupation of the remainder of Bohemia and Moravia took place, was that a surprise to you, and did you regard it as an act of good faith, in view of the Munich Pact?

A. I lived in retirement at that time and kept away from all politics. Therefore, I did not ponder this question.

Q. You don't recall what your reaction was to this occupation of Bohemia and Moravia?

A. No.

Q. Did you know of the assurances given by England and France to Poland to assist Poland in case of aggression?

A. I don't know that any more.

Q. Well, this was published in the newspapers. Wouldn't you assume that you knew about it at the time?

A. It is probable. It is even certain that I knew at that time. Today I don't know it any more. I cannot recall all these connections between the political events. They escape me now.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS
FRANZ HALDER*

DIRECT EXAMINATION

* * * * *

DR. LATERNSEER (counsel for defendant von Leeb): Do you know which office Field Marshal von Leeb held during the years of rearmament?

WITNESS HALDER: In these years, until the beginning of 1938, Field Marshal von Leeb was Commander in Chief of Group 2 in Kassel.

Q. What official contact did he have with Hitler at that time by reason of his official position?

A. By reason of his official position he had no official contact with Hitler.

Q. And what possibility of influence had he on rearmament?

A. The commanders in chief of the group commands had no possibility of influence at all. They were informed.

Q. After certain measures had been ordered?

A. The official channel in questions of organization, of rearmament here, went from the Reich War Ministry to the military districts; and the group commands were informed about the most important questions.

Q. Which offices, apart from the OKW and the OKH were concerned with the execution of rearmament?

A. The people in charge of the practical organization of increasing the army—that is what you mean by rearmament?

Q. Yes.

A. These were the military district commands and the corps headquarters. They are the same,—the military district commands and the corps headquarters are on the same command level if they have territorial authority; but if they have no territorial authority, such as Panzer corps, for example, then they are called corps headquarters.

Q. And now, with regard to the period of preparation for war. The prosecution asserts that since 5 November 1937, by reason of a conference of Hitler with the Commanders in Chief of the branches of the Armed Forces, the plan for aggressive war was started. What did your predecessor, General Beck, tell you about

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948; pp. 1817-1864, 1867-2155.

this when you took over the position as Chief of the General Staff? What did he tell you about this conference which was held on 5 November 1937?

A. Beck told me nothing at all about it. I only heard about this conference for the first time here in Nuernberg, in 1945.

Q. When you took over office, what discoveries did you make with regard to an intended war?

A. From the sphere of work of training, in which I spent most of my general staff service, I only went into the sphere of so-called national defense—that is, operational leadership in the first three months of 1938. As Oberquartiermeister I, I found out about the work which was already in process there. During the 6 weeks I spent acquainting myself with the work, and also while taking over office as successor to Beck, I only learned to know about one operational plan, which could be designated as an aggressive plan. That is the plan which arose at that time on the basis of orders by the OKW, called "Case Green." But I did not hear at all about any other preliminary work, not even in the sense of large scale studies. I found out nothing at all of this kind—only about the normal current defense deployments for the security of the frontier which was worked out yearly for East and West.

Q. What was the attitude of the General Staff before the occupation of the Sudetenland?

A. The attitude can be described best of all by an indication of the memorandum of the General Staff, which was mentioned yesterday,* which Beck signed and submitted to the Commander in Chief, and which finally contained the warning of the General Staff against every policy of aggression and which was submitted to Hitler.

Q. Which instructions went out after the occupation of the Sudetenland with reference to training, etc.?

A. After the entry into the Sudeten territory and the end of military action, I can name two lines of thought. One is: the OKW demanded that those military districts neighboring on the Sudeten territory were to be kept in a kind of state of alert, so that in case of internal revolt in Bohemia and Moravia, which would disturb the security of the recently occupied Sudeten territory, they could be quickly called upon. That is the one subject, operational measures. The other is that in December 1938, the OKW sent out a short order signed by Keitel to the OKH. I assume that it was sent to the air force and the navy, but I don't know for certain. Its contents were as follows: "The political situation makes it seem

* See testimony of General Halder contained in section B4.

that long term military tension is improbable. The army has for the next few years,"—I can't say for certain whether the year 1944 or 1945, was mentioned—"the only task of dealing with its internal building-up and training. Any kind of operational plan must be discontinued, even the yearly security deployments are to be discontinued." Perhaps I might add that I cannot swear to the exact wording here, but the sense is correct.

Q. And what was the approximate date when this OKW directive was issued?

A. The first half of December 1938.

Q. And how did the occupation of the rest of Czechoslovakia come about?

A. I don't know. I know almost nothing at all about what happened before. I only know that shortly before the actual occupation we received the order for the preparedness of the military district commands, which has just been mentioned by me, to be utilized, and for part of the troops to be kept ready for action, in case after a peaceful regulation, the occupation of the other parts could be made.

Q. What was the point of view of the General Staff to the action against Czechoslovakia?

A. An official attitude to this problem was neither asked for nor given by the General Staff. I myself, at that time, personally said to the Commander in Chief of the Army that the utilization of the German Army as a means of political blackmail—because that's what it seemed to me at that time—was not in accordance with the dignity of the German Army.

Q. And what did Brauchitsch thereupon do?

A. I know that he shared my opinion, but when and how he spoke to Hitler about it I don't know.

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CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Witness, you have stated that it was planned that Leeb would be the commander of the 12th Army, and—

WITNESS HALDER: In 1938, he was assigned as commander of the 12th Army.

Q. What was the peacetime designation of the 12th Army?

A. There was no such thing in peacetime.

Q. Well, was there a certain army corps or army group headquarters which would be taken over as the headquarters for the 12th Army?

A. The commander of the 12th Army was a command agency particularly created for that purpose, and it was activated by Military District Command VII.

Q. Now, as I understood your testimony, it was to the effect that Leeb was called in and made a privy to the plans for the attack on Czechoslovakia only in September 1938.

A. I didn't understand the question.

Q. When to the best of your recollection was Leeb called in and told of the plans for the attack on Czechoslovakia and advised that he would be the commander of the 12th Army, which was to participate in that attack?

A. As far as I recall, that happened in September 1938; but, it might have been earlier; I don't know the exact date.

Q. Doesn't it strike you as a bit curious that the man who was going to command one of the principal armies in the attack is not called in until a few weeks before the attack is scheduled?

A. No, such cases occurred quite frequently that a commander in chief took over the command at the time when the army unit was activated.

Q. Now, the VII Corps was located in Munich; was it not?

A. Yes.

Q. Leeb before his retirement had been stationed in Bavaria for several years, had he not?

A. For certain periods of time he was stationed in the Munich garrison, that is right.

Q. One could say that he would be an expert on the deployment possibilities in the area from which the attack against Czechoslovakia was to be launched?

A. I don't quite understand what you mean by expert. I am sure that Leeb knew all about the Bavarian forest area since he was an inhabitant of Bavaria. I am sure he knew more about it than, for instance, some Pomeranian or East Prussian.

Q. Well, the burden of my question is that it seems to me only reasonable that such a man would have been called in during the planning of the Czech attack.

A. There was no particular reason to do that, to call in a geographical expert. After all, every high ranking officer who received the assignment was to be in a position to deal with it.

Q. I hand you Document NOKW-141, Prosecution Exhibit 5. This is the service record of Ritter von Leeb, and I will ask you to turn to the last page of the photostat.

A. Yes, I have it.

Q. Do you find the entry of 1 July 1938, which is underlined in red pencil?

A. Yes, I see that.

Q. Will you read that to the Tribunal?

A. The entry reads: "On 1 July 1938, placed at the disposal of the Army (VII Corps)."

Q. Does that indicate to you at all that Leeb was perhaps called in for the planning of the Czech attack on 1 July?

A. No, according to the language used in our circles, it meant that Leeb, a retired officer, in the event of a reassignment was to be made available for the area of the VII Army Corps, that is the VII Corps had to register him in its records.

Q. With the same army corps which was later the 12th Army?

A. No, the VII Corps made available the staff of the 12th Army, and activated it for that particular purpose.

Q. There is no entry to the personnel records there between Leeb's retirement on 1 February 1938 and 1 July 1938, is there?

A. No.

Q. And the Fuehrer's order to crush Czechoslovakia had been given a month before 1 July 1938, had it not?

A. I don't remember that according to dates.

Q. I don't believe there has been any mention made yet about the Working Staff Leeb in Munich in 1938. Perhaps you can tell the Tribunal something about the Working Staff Leeb.

A. There was no Working Staff Leeb, at least not as far as I can recollect it. It was a formation, the command of the 12th Army which the VII Corps Headquarters had created and organized and Leeb was put at the head of it.

Q. Well, when was this Working Staff Leeb organized, Witness?

A. This staff was organized as a part of the formations which were kept in readiness for Case Green.

Q. But, Witness, you have testified that to the best of your recollection Leeb was not called in to the planning of Case Green.

A. Yes, concerning his own person. I expressly said that the date when Field Marshal von Leeb was informed and instructed,

I don't recall from memory; I can't state the date with any certainty, but the staff, as such, I believe was formed at an earlier date. There again I cannot recall the exact date. The commander in chief in such cases only put in an appearance when the staff itself was organized and activated.

Q. Well, when to the best of your recollection, without giving the exact date, was the Working Staff Leeb constituted?

A. This working staff must have been constituted in the summer of 1938.

Q. And that staff was working on the plan of operations for the Czech attack?

A. This staff dealt with the sector of the 12th Army.

Q. Are you suggesting to the Tribunal that the Working Staff Leeb was formed in the summer of 1938, without the knowledge or participation of the defendant Leeb?

A. I don't want to suggest that. In such cases a very responsible General Staff officer, either proposed as the chief of staff or the Ia, would receive the assignment—in this instance from the OKH—to prepare matters. And if the preparation had reached a certain stage and the prospective commander in chief was available, then he would be appointed.

Q. How many—who were the members on Working Staff Leeb, other than Leeb himself?

A. I only remember the name "Blumentritt." When General von Manstein, who later replaced the chief of staff of that army entered the Working Staff I can no longer remember, and I cannot tell you from memory.

Q. Would you say that the Working Staff Leeb was similar in formation and purposes to the Working Staff Rundstedt?

A. I don't quite know what you mean by Working Staff Rundstedt, nor to what period of time you are referring.

Q. I'm referring to the Working Staff Rundstedt which was formed, as I recall, in May 1939, in connection with the Polish campaign. Now, would you say that—

A. There is a certain similarity.

Q. Well, Witness, you'll have to amend your answer now that the defendant Leeb could not have anything to do with the planning of operations for the Czech attack, won't you?

A. My testimony was that he was not a responsible participant in the over-all planning.

Q. You played an important part in the planning of the Czech attack did you not, Witness?

A. I had to deal with the tasks which arose in the OKH.

Q. Well, perhaps you remember the meeting with the Fuehrer in September in Nuernberg, on 9 and 10 September, at which you presented orally some rather elaborate plans of attack. Do you remember this?

A. I remember the conference. I do not remember any elaborate plan of attack.

Q. Well, you explained to the Fuehrer the plan of operations as it had been developed, did you not?

A. I explained to him that the ideas which he had were not suitable and expedient, and a debate arose concerning my point.

Q. Well, Witness, hadn't the attack date already tentatively been set at the time of this meeting in early September?

A. No, it had been ordered that the army, until the end of September, was to be in such a state of readiness that it could move on any order which might have been given after that date.

Q. Well, to state it a little differently, the target date was 1 October, was it not?

A. The target date of the state of preparedness which had been ordered. That's right.

Q. Now, the Party Day Rally was going on at the time you had your conference with the Fuehrer, was it not?

A. I was ordered to the Reich Party Rally because the Fuehrer was there at the time. That's quite right.

Q. Do you remember whether Leeb was there?

A. Leeb was not present during that conference.

Q. What other conference did he participate in?

A. I do not remember any such conferences before the Sudeten incident, and I don't remember having seen Leeb at any such conferences.

Q. What about after the Sudeten incident?

A. I don't recall anything either. For a long time during that period of time I didn't see Herr von Leeb.

* * * * *

Q. Do you remember how long it was after Hitler had signed the Munich Pact, that he issued directives to the OKH to prepare the liquidation of the rest of Czechoslovakia?

A. To the best of my recollection that occurred in 1939, but again, I can't tell you the exact date.

Q. You don't remember that a request was submitted to the OKW around 10 October 1938, asking the OKH what reinforcements would be necessary for the occupation of the rest of Czechoslovakia? You don't recall such a request?

A. No, I don't recall that, but if such an inquiry did exist, and if I may have a look at any documents to that effect, they might refresh my memory.

Q. I'll hand to you Document C-136, Prosecution Exhibit 1056. Witness, have you ever seen this document before?

A. I cannot remember that I did, but it's quite possible. It's even probable.

Q. Yes. Well, this is a directive, dated 21 October 1938, from the [department] National Defense of the OKW, which issued the order in the name of the Fuehrer, stating that the armed forces will prepare for the following eventualities: "No. 2: The liquidation of the remainder of Czechoslovakia." This directive was received by the OKH, was it not, Witness?

A. May I point out that the text concerning the remaining area of Czechoslovakia is a precise one. May I read it out?

Q. Yes.

A. It says: "It must be possible to smash at any time the remainder of Czechoslovakia, if her policy should become hostile toward Germany."

Q. Yes. Well, you find that language in agreement with your notions of good, fair conduct, in view of the Munich Pact's having been signed three weeks before? Is that right?

You find nothing objectionable about this directive?

A. That's a purely political question, and since I am not a politician I can voice no exhaustive judgment.

Q. Well, Witness, you testified for a day and a half about the resistance movement of high ranking military leaders with respect to just this attack—that is, Czechoslovakia. You were exercising a political judgment, as you put it, then weren't you?

A. I said that this movement and these measures in 1938 had, first of all and above all, the purpose of preventing a war.

* * * * *

D. Invasions of Other Countries

I. POLAND

PARTIAL TRANSLATION OF DOCUMENT NOKW-2883
PROSECUTION EXHIBIT 1372

DIRECTIVES FROM COMMANDER IN CHIEF OF THE NAVY,
23 NOVEMBER 1938, CONCERNING OCCUPATION
OF MEMEL, INITIALED BY SCHNIEWIND

To be carried out by the Commander in Chief

Commander in Chief of the Navy
B. No. 1/Naval War Staff Ia Op 111/38

Top Secret, Matter for Chiefs

Berlin, 23 November 1938

[stamp]

Matter for Chiefs
Through officer only

I. Write: 15 copies

To:

Naval Group Command East—	Control No. 1
For information to:	
Fleet Command—	Control No. 2
Commander of Reconnaissance Forces—	Control No. 3
Station East [Baltic]—	Control No. 4
Commander of Security of the Baltic—	Control No. 5
Air Force Command (Sea)—	Control No. 6
Commander Air Forces—	Control No. 7
Station N [North Sea] for Group West—	Control No. 8

Subject: Directives for an occupation of Memel

A. Directives of the Armed Forces Command to the branches of the armed forces

1. The political situation, especially an armed conflict between Poland and Lithuania, may make it necessary that the German Armed Forces occupy the Memel territory. The commitment is to be prepared in such a manner that it may be executed in the shortest time.

2. The Commander in Chief of the Army is charged with the execution of the operation from the ground. For this purpose are under his command also the units of the air force located in East Prussia.

It is important that the Memel territory be occupied with lightning speed and held by forces which are ready to march, and not by mobilized ones.

The fast occupation of the city of Memel is necessary in the interest of the German population.

3. The navy supports the operation of the army by intervention from the sea according to specified directives of the Commander in Chief of the Navy.

The participating forces depend on cooperation with the army.

For this purpose all naval air forces ready for action are under the command of the Commander in Chief of the Navy.

4. Outside of East Prussia the Luftwaffe keeps under its own command according to specified directives of the Commander in Chief of the Air Force, special forces ready in such a way that they may be transferred to East Prussia or put directly into action at any time. The Fuehrer and Supreme Commander reserves this order for himself.

5. The preparation for the operation must be made in such a manner that after the arrival of the order the border can be crossed by the foremost elements in the shortest time and that units of the fleet appear off Memel at the same time.

The Fuehrer and Supreme Commander reserves for himself the permission for crossing, or flying over the border, as well as for sailing into foreign territorial waters.

6. The Commander in Chief of the Army has to make necessary preparations for protection of Danzig if it becomes necessary.

B. I give the following directives for the preparation and execution:

7. I stress the execution of this task as a special task of honor of the navy. Thus, the attitude of all the command authorities toward this task is given.

8. The commander of the Navy Group East is charged with the preparation and execution of the operation of the navy including the naval aviation. The order for the execution will be given by the Commander in Chief of the Navy.

9. The navy group commander is directed to cooperate directly with the Corps Headquarters I, East Prussia, and the Air Force Command East Prussia which are charged with the preparation and execution of the operation by both the other chiefs of the armed forces.

* * * * *

C. Preparations of an operation against Danzig

27. The High Command of the Army has received the order to make preparations for a surprise operation to occupy Danzig, in

a similar way as in the case of the, "Transport Exercise Stettin." Assuming that no hostile action on the part of Poland is to be expected before this occupation, it should be examined, in cooperation with Corps Headquarters I, as to how far the navy will be in a position to support the task of the army. In this connection it must be taken into consideration that the operation against Danzig may have to start at the same time as the "Transport Exercise Stettin." The commitment of the Naval Landing Corps will only be possible, according to the preliminary cogitations of the High Command of the Army up to now, if the "Transport Exercise Stettin," has been completed and the army cannot provide in time their own forces for the tasks to be carried out by a landing detachment. As in the case of the "Transport Exercise Stettin," during the execution of this operation, one will not be able to disregard the necessity for safeguarding and reconnaissance measures in the face of possible Polish steps. Furthermore, the preparations will have to take the fact into consideration that—in the same way as in the case of, "Transport Exercise Stettin"—hostile actions against Poland, as for instance, any artillery fire directed against the Westerplatte territory or an occupation of same, are out of the question, as long as Poland does not oppose the operation by force of arms. On the other hand, the measures have to be organized in such a way, that any such resistance in Danzig could, if necessary, be broken immediately and the operation carried on according to plan.

28. The directives issued for the execution of the "Transport Exercise Stettin," also apply to the operation against Danzig with the necessary alterations. As soon as the discussions with Corps Headquarters I show that there are points which necessitate further directives by the High Command of the Army, these should be asked for.

29. I consider it of importance that in the case of the operation against Danzig as well, all possibilities for an active participation of the navy should be fully exploited.

30. The operation against Danzig is uniformly designated with all three branches of the armed forces by the code word, "Transport Exercise Stolpmuende."

Correspondence is to be carried on under this heading.

31. The Naval Group Command East will report by about middle of December, at the latest by first January, that these preparations have been completed.

D. *Other measures*

32. After the "Transport Exercise Stettin," has been carried out, preparations are to be made by way of naval transports for

fortifying Memel as speedily as possible, in the first instance by means of medium naval batteries and anti-aircraft guns, as it is intended to use Memel as a sea fortress. The corresponding careful preparations are to be made for Danzig. The Naval Group Command East will make the necessary investigations and will submit a proposal by 5 *January* concerning the fortification and occupation of Memel and Danzig and the question of transports.

The Commander in Chief of the Navy

- II. Control No. 9—Copy for information of Chief A IV, to be retained by chief
Control No. 10—copy for information of Chief A VI, to be retained by chief
Control No. 11—copy for information of Chief Naval Ordnance Office, Chief E, Chief MPA to be retained by 1/Naval War Staff
- III. To be retained for information after dispatch by the main Referent 1/Naval War Staff and Commander Henning
- IV. Three copies in reserve

[Initial] S [Schniewind]
Naval War Staff
1/Naval War Staff

PARTIAL TRANSLATION OF DOCUMENT EC-488
PROSECUTION EXHIBIT 1076

LETTER FROM THE PLENIPOTENTIARY GENERAL FOR ECONOMY TO THE HIGH COMMAND OF THE ARMED FORCES, 28 JANUARY 1939, CONCERNING FUTURE UTILIZATION OF PRISONER OF WAR LABOR

Plenipotentiary General for the War Economy
7/437/39, Secret

Berlin W. 8, Behrenstrasse 63

Replies to be addressed to: 28 January 1939

The Leader Staff of the Plenipotentiary
General for Economy
Attention: Ministerial Director Sarnow,
or Deputy in the Office.

Express Letter Secret

To the High Command of the Armed Forces
Department Interior [Inland],
Attention: Major Breyer, or Deputy in the Office
Berlin

Subject: Employment of prisoners of war

With reference to the meeting of both our special departmental experts in the case, I would like to inform you of the following:

I

According to the Reich Defense Law of 4 September 1938, I am in charge of the economic preparations for the Reich defense (except the armament industry). The offices under my jurisdiction (Reich Ministry for Economic Affairs, Reich Ministry of Food and Agriculture, Reich Labor Ministry, Reich Forest Master and Reich Commissioner for Price Control) are bound to follow my directives.

For the preparations concerning the utilization of labor during the war, the measures planned by you for the housing and the utilization of prisoners of war are of great importance. In the case of mobilization there would be an important deficit of laborers which might be catastrophic in some parts of the economy. I can refer to the statements of General Keitel, State Secretary Dr. Posse, and State Secretary Dr. Syrup in the meeting of the subcommittee on 17 January 1939, concerning balance sheets for figures. The deficit in labor has to be made up by the employment of eventual prisoners of war as far as possible and practical. The preparations, therefore, have to be made with close cooperation of the OKW and the Plenipotentiary General for Economy. The offices under my jurisdiction will be informed.

I therefore beg you to inform me of the preliminary studies prepared so far and to have negotiations of a principal nature in future with me. I would be grateful for a copy of the drafts so far prepared.

II

In the drafting of the directives I want to emphasize the following principles:

1. *Location of camps*—For the choice of *transit camps* only military and technical transport exigencies will prevail.

As far as the *permanent camps* are concerned, the exigencies of labor utilization will have to be taken into consideration. It will be expedient to locate them in districts which presumably will have the greatest and most urgent need for workers. The preliminary studies of the President of the Reich Institution for Employment and Unemployment Insurance concerning employment during war in the agriculture could serve as a basis.

I therefore beg you, before the final decision about the location of the six contemplated permanent camps, to give me an oppor-

tunity to offer my advice. This could be done within a very short time.

2. *Dimension of the camps*—According to present directives, the permanent camps shall take in 10,000 men, and the work details should return daily to the camp even if longer distances are involved. This regulation renders more difficult a practical employment. Therefore, a more flexible arrangement of the camps should be sought, as far as military reasons do not interfere and self-contained working commands should be provided.

* * * * *

[*unsigned*]

Berlin, 28 January 1939.

To the High Command of the Armed Forces

Attention: *a.* Col. Warlimont (Department National Defense)
or Deputy in the Office
b. Major General Thomas (Military Economy Staff)
or Deputy in the Office
Berlin

I am forwarding herewith the foregoing copy for your information, with a request to keep my office informed of all negotiations.

BY ORDER:

[Stamp] Certified:

[Signed] SARNOW

[Signature illegible]

PARTIAL TRANSLATION OF DOCUMENT R-100*
PROSECUTION EXHIBIT 1077

INFORMATION GIVEN TO THE COMMANDER IN CHIEF OF THE
ARMY BY THE FUEHRER ON 25 MARCH 1939

Danzig Problem

L. [Lipski] will return from Warsaw on Sunday, March 26. He was commissioned to ask whether Poland would be prepared to come to some terms with regard to Danzig. The Fuehrer left

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. VIII, pp. 83-86, for translation of entire document.

Berlin during the night of 25 March, he does not wish to be here when L. returns. R. [Ribbentrop] shall negotiate at first. The Fuehrer does *not* wish *though* to solve the Danzig problem by the use of force. He would not like to drive Poland into the arms of Great Britain by doing so.

A military occupation of Danzig would have to be taken into consideration *only* if L. gives a hint that the Polish Government could not take the responsibility toward their own people to cede Danzig voluntarily and the solution would be made easier for them by a *fait accompli*.

Problem Poland

For the time being, the Fuehrer does not intend to solve the Polish question. However, it should now be worked on. A solution in the near future would have to be based on especially favorable political conditions. In that case Poland shall be knocked out so completely that it need not be taken into account as a political factor for the next decades. The Fuehrer has in mind as such a solution, a border line advanced from the eastern border of East Prussia to the eastern tip of Upper Silesia. Evacuation and re-settlement are questions that remain open. The Fuehrer does *not* want to go into the Ukraine. Possibly, one could establish a Ukrainian State. But these questions also remain open.

Slovak Question

How long the Fuehrer considers himself bound by the treaty concluded with Slovakia, is open to doubt. The Commander in Chief of the Army has the impression as if the Fuehrer wants to free himself of this obligation when the time comes, and that he will use Slovakia as an asset for bargaining between himself, Poland, and Hungary. For the time being, however, brakes should be put on Hungary.

The Fuehrer agrees to the border line proposed (line of the river Waag [Vah]). In case Slovakia should be divided, the eastern border (line of the Neutra [Nitra] river) should be the border including Bratislava. For Bratislava possibly plebiscite; the Fuehrer does not expect difficulties because the town is not tending toward Hungary.

* * * * *

Certified:

[Signature illegible]

Colonel, G.S.C.

PARTIAL TRANSLATION OF DOCUMENT C-120*
PROSECUTION EXHIBIT 1079

COVERING LETTER AND DIRECTIVES FROM HIGH COMMAND OF
THE ARMED FORCES TO THE ARMY, NAVY, AIR FORCE, 3 APRIL 1939,
CONCERNING "CASE WHITE" AND THE ANNEXATION OF DANZIG

[Stamp] Top Secret

[Stamp]
Matter for Chiefs
Through officer only

[Handwritten].

1/Naval War Staff

I op 43/39

High Command of the Armed Forces Armed Forces Operational
Office

No. 37/39, Top Secret, Matter for Chiefs L Ia

Berlin, 3 April 1939

5 copies—2d copy

Subject: Directive for the armed forces 1939-40

The "*Directive for the Uniform Preparation for War by the
Armed Forces*" is being reissued.

Part I ("Border Security") and part III ("Danzig") will be
issued by the middle of April. They remain basically unchanged.
[Handwritten in margin] *attached*

Part II, "Case White," is attached. The Fuehrer's signature
will be appended later.

The Fuehrer, in addition, has issued the following directives
concerning the "Case White":

1. It must be drawn up so as to make possible its execution at
any time starting *1 September 1939*.

2. OKW is charged to draw up a precise timetable for "Case
White," and to arrange synchronization of the three branches of
the armed forces by conferences.

3. The plans of the branches of the armed forces and the draft
of the timetable must be submitted to KW by *1 May 1939*.

[Marginal handwritten note] Ia G. 3/4

Chief OKW

[Signed] KEITEL

Distribution list:

High Command of the Army — 1 (Control No. 1)

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. VI, pp. 916-928 for more complete translation of document.

High Command of the Navy	—	1 (Control No. 2)
Reich Minister for Aviation and C in C Air Force	—	1 (Control No. 3)
OKW (National Defense)	—	2 (Control Nos. 4 and 5)
		5
Total		5

Enclosure II to OKW No. 37/39

Top Secret L I

[Stamp] Top Secret

5 copies—2d copy

II. "Case White"

The present attitude of *Poland* requires, in addition to the plan "Border Security East," the initiation of military preparations, to remove if necessary any threat from this direction for all time.

1. *Political requirements and aims*—German relations with Poland continue to be based on the principle of avoiding friction. Should Poland, however, change her policy toward Germany, based up to now on the same principles as our own, and adopt a threatening attitude towards Germany, a final settlement might become necessary, notwithstanding the pact in effect with Poland.

The *aim* then will be to destroy Polish military strength, and create a situation in the East which satisfies the requirements of national defense. The Free State of Danzig will be proclaimed a part of the Reich territory at the outbreak of the conflict, at the latest.

The political leadership considers it its task in this case to isolate Poland if possible, that is to say, to limit the war to Poland only.

The development of increasing internal crises in *France* and the resulting *British* cautiousness might produce such a situation in the not too distant future.

Intervention by *Russia*, so far as she might be able to intervene, cannot be expected to be of any use for Poland, because this would mean Poland's destruction by bolshevism.

The attitude of the *Baltic States* will be determined wholly by German military exigencies. (In the course of further development it may become necessary to occupy the Baltic States up to the border of the former Courland and to incorporate them into the Reich.) ["In * * * Reich." Crossed out in original.]

[Marginal note] according to OKW 37/39, dated 13 April.

On the German side, *Hungary* cannot be considered a certain ally. *Italy's* attitude is determined by the Berlin-Rome Axis.

2. *Military conclusions*—The great objectives in the reconstruction of the German Armed Forces will continue to be determined by the antagonism of the Western Democracies. "Case White" constitutes only a precautionary complement to these preparations. It is not to be looked upon in any way, however, as the necessary prerequisite for a military settlement with the western opponents.

The isolation of Poland will be more easily maintained, even after the beginning of operations, if we succeed in starting the war with sudden heavy blows and in gaining rapid successes.

The over-all situation will require, however, that precautions be taken to safeguard the western boundary and the German North Sea coast, as well as the air above them.

Against the Baltic States—Lithuania in particular—security measures are to be carried out in the event of a Polish march through this country.

3. *Tasks of the armed forces*—The task of the German Armed Forces is to destroy the Polish Armed Forces. For this reason a surprise attack is to be attempted and prepared. The camouflaged or open mobilization will not be ordered earlier than the day before the attack and at the latest possible moment.

The forces provided for the "Border Security West" (enclosure I, "Border Security"), must not be employed for any other purpose for the time being.

All other frontiers are to be kept under observation only—the Lithuanian is to be covered.

4. *Missions of the branches of the armed forces*

a. *Army*—The operational objective in the East is the annihilation of the Polish Army.

For this purpose the German Armed Forces, on the southern flank, may enter Slovak territory. In the North, communication between Pomerania and East Prussia must be established quickly.

The preparations for the opening of operations are to be made in such a way, that even without waiting for the planned assembly of mobilized units, positions can be taken up immediately by the first available troops. A camouflaged assembly for these units just before the day of attack may be provided. I reserve for myself the decision in this matter.

Whether the forces provided for the "Western Border Security" will be deployed there completely, or will be partly available for some other employment, will depend upon the political situation.

b. *Navy*—The tasks of the navy in the *Baltic Sea* are as follows:

(1) Destruction and/or elimination of the Polish Navy.

(2) Blockade of all sea routes to the Polish naval bases, especially Gdynia. The neutral shipping in Polish harbors and in Danzig is to be given a time limit for sailing at the beginning of the invasion of Poland. After its expiration, the navy will be free to set up blockade measures.

The disadvantages for the naval warfare caused by this time limit must be accepted.

(3) Suppression of the Polish maritime trade.

(4) Securing of the sea route Reich—East Prussia.

(5) Protection of German sea communications to Sweden and the Baltic States.

(6) Reconnaissance and protection, as far as possible, in an inconspicuous manner against an intervention by the Soviet Navy from the Gulf of Finland.

Suitable naval forces are to be provided for defense of the coast and coastal zone of the *North Sea*.

In the southern part of the North Sea and in the Skagerrak, measures deemed advisable are to be taken as precautions against a surprise intervention of the Western Powers. These measures are to be restricted to the absolute minimum. Their inconspicuousness must be assured. It is of decisive importance to avoid here any sort of action which might aggravate the political attitude of the Western Powers.

c. *Air Force*—The whole air force except for necessary forces left in the West, is to be committed for a surprise attack against Poland.

Besides destruction of the Polish Air Force in the shortest time possible—the tasks of the German Air Force are principally as follows:

(1) Interference with the Polish mobilization and prevention of planned Polish strategic concentrations.

(2) Tactical support of the army, especially support of the spearheads starting immediately after the crossing of the frontier.

A possible transfer of flying units to East Prussia, before the beginning of operations, must not endanger surprise.

The moment of the first flight over the frontier is to be synchronized with the operations of the army.

Attacks against the harbor of Gdynia may be undertaken only after expiration of the time limit for sailing for the neutral ships. * * *

Strong points of air defense are to be set up above Stettin, Berlin and the Upper Silesian industrial district including Moravska Ostrava and Brno.

* * * * *

Enclosure III to OKW No. 37/39
Top Secret, Matter for Chiefs
Armed Forces

Operations Office/National Defense I
[handwritten] 13

[Stamp]

Matter for Chiefs
Through Officer only!

5 copies—2d copy

III. Annexation of Danzig

A surprise annexation of the Free State of Danzig may come into consideration, independently of the "Case White," to exploit a favorable political situation.

The preparations are to be carried out on the following basis:

The "Delineation of command authority in East Prussia in case of warlike complications," (see enclosure IV) will be put into effect, according to No. 3.

The occupation by the *army* will be carried out from East Prussia.

The *navy* will support the operation of the army by intervention from the sea, according to detailed orders of the Commander in Chief of the Navy. The naval forces involved are to be instructed to cooperate with the army.

To what extent the units of the *air force* can take part in the occupation, is to be decided by the Reich Minister for Aviation and Commander in Chief of the Air Force.

Details on cooperation are to be settled among the branches of the armed forces directly.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT C-120*
PROSECUTION EXHIBIT 1079

COVERING LETTER FROM HITLER TO ARMY, NAVY, AIR FORCE, AND
OKW, 10 MAY 1939, ENCLOSING INSTRUCTIONS
FOR ECONOMIC WARFARE

The Supreme Commander of the Armed Forces

* Ibid., pp. 916-928.

Berlin, 10 May 1939

[Stamp]

OKW No. 48/39, Top Secret
Armed Forces Operations Office
National Defense (I)

Matter for Chiefs
Through officer only
7 copies—2d copy

Top Secret

[Handwritten] Office Chief A Ia

[Stamp]

High Command of the Navy

A I op. 50/39

Received: 12 May 1939

Subject: Directive for the Uniform Preparation
for War by the Armed Forces for 1939-40
(OKW No. 37/39, Top Secret
Matter for Chiefs
Armed Forces Operations Office/
National Defense (I) of 11.4.39)

Enclosures: 1

[Handwritten] added in notes of verbal report

[Initial] S [Schniewind]

Herewith, as part VI of the "Directive," instructions for economic warfare and the protection of our own economy are issued.

The commanders in chief of the branches of the armed forces will report to the OKW concerning the measures taken in consequence of these instructions by 1 August 1939.

[Handwritten] Conference was held on 20 June—Ia [Illegible initial]

[Signed] ADOLF HITLER

Distribution:

High Command of the Army	—	1 (Control No. 1)
High Command of the Navy	—	1 (Control No. 2)
Reich Minister for Aviation and C in C Air Force	—	1 (Control No. 3)
OKW (Military Economy Staff)	—	1 (Control No. 4)
OKW (Foreign Counter Intelligence)	—	1 (Control No. 5)
OKW (National Defense)	—	2 (Control Nos. 6 and 7)

[Initial] S [Schniewind]

1. with 3/Naval War Staff

[Handwritten]

* * * * *

* * * * *

- 1. With IId 27/5 3. to 1/Naval War Staff. Ia not later than 8.6.
[Illegible initial] to K
- 2. With Ia
2/6 1/Naval War Staff IId
- 3. To the files [Illegible initial]
Ia c Ia
[Illegible initial] 25 May

[Stamp]
Top Secret

[Stamp]
Through Officer only
Matter for Chiefs

7 copies
copy

Enclosure VI to OKW No. 37/39 Top Secret Armed Forces
Operations Office/National Defense Ia

[Stamp]
Matter for Chiefs
Through officer only!

VI. Directives for the War Against Enemy Economy (Economic Warfare) and Measures for the Protection of our own Economy

I. Introduction

1. The most important *instruments of the attack* against the enemy economy are the navy and air force. Their measures will be supplemented by sabotage warfare (OKW Counterintelligence). It may be the mission of the army to extend our German living space by the occupation of enemy territories of special importance to our own economy.

The preparation of *economic warfare* measures is the responsibility of the Plenipotentiary General for the Economy.

The OKW (Armed Forces Operations Office in coordination with the Military Economy Staff) will insure that *uniform objectives* are set for all measures against the enemy economy. The same applies for measures for the protection of our own economy.

* * * * *

d. In maritime and coastal areas the Commander in Chief is responsible for the protection of commerce to the extent shown

by the directives issued for the uniform conduct of the war. In case of a war with England our own imports from and exports to countries abroad can no longer be counted on, apart from isolated blockade runners. In this case it will mainly be necessary to protect commerce in the Baltic and the coastal glacies of the North Sea.

3. *Special preparations in connection with military economy*— Since, in the case of a war with England, Germany will be cut off from supplies shipped via the Atlantic, the Plenipotentiary for Economy should make preparations, in cooperation with OKW (W staff) and other agencies concerned, for the following projects in the first instance:

- a. Increased exchange of goods with Italy.
- b. Increased imports from the southeast territories.
- c. Economic agreements to secure ore deliveries from Scandinavia, as well as a transfer of shipping to the southern Swedish ports.
- d. The regroupings within Germany connected with this, both as regards economy and traffic.

III. *Directive for "Case White"*

1. The objective is to capture the Polish economic installations as intact as possible. They may be attacked only in case of immediate military necessity.

2. The quick occupation of the industrial districts of Poland Upper-Silesia, and Teschen is important for the war economy.

3. All sea-borne imports to Poland have to be prevented by the navy. For this purpose the method of economic warfare against Polish imports is to be laid down in cooperation with the Foreign Office in accordance with the political situation. Of special importance here is the treatment of neutral shipping and of goods which are possibly destined for Poland by way of neutral ports.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2657 PROSECUTION EXHIBIT 1379

COVERING LETTER FROM HIGH COMMAND OF THE NAVY TO
GROUP COMMAND EAST, 28 APRIL 1939, SIGNED BY SCHNIEWIND,
ENCLOSING DIRECTIVE FOR THE PREPARATION OF OPERATIONS
AGAINST DANZIG

[Stamp]
Matter for Chiefs
Through Officer only

[Handwritten] For Diary Group West
Initial, please also inform
W/L and R. [Illegible initial]

[Stamp] Top Secret

[Stamp]

Naval Group Commander West

Received: 9 May 1939

Diary No. Top secret 1, Encl. 1 Matter for Chiefs

High Command of the Navy

Berlin, 28 April 1939

Diary 1. A. Naval War Staff Ia op. 46/39

Top Secret—Matter for Chiefs

		Control No. 8
To Group Command East	—	Control No. 1
For information to:		
Fleet Command	—	Control No. 2
Commander of Reconnaissance Forces	—	Control No. 3
Station East [Baltic]	—	Control No. 4
Commander of Security of the Baltic	—	Control No. 5
General of the Air Force with the CinC Navy	—	Control No. 6
Commander Air Forces	—	Control No. 7
Station N [North Sea] for Group West	—	Control No. 8

Subject: Directive for "Transport Exercise Stolpmuende"

Reference: CinC Navy 1. A. Naval War Staff Ia op 111 Top
Secret Matter for Chiefs, dated 23 November 1938

1. The execution of the annexation of the Memel territory has cancelled the directive concerning "Transport Exercise Stettin." This necessitated a renewed checking and simplification by way of a new version of the directives issued concerning "Transport Exercise Stolpmuende."

Enclosed please find this revised version of the directive for the occupation of Danzig (Transport Exercise Stolpmuende).

2. The measures provided for "Transport Exercise Stolpmuende," are to be revised on the basis of this new directive. Those instructions are to be removed from it, which had to be provided up to the incorporation of Memel into the Reich in the event of all possible complications or the immediate sequence of the Transport Exercises Stettin and Stolpmuende.

3. The "Case White" (mentioned under No. 22) of the enclosed directive concerns a directive for a preparation for a conflict with

Poland. *Within the next few weeks*, the group command will receive a pertinent directive. The immediate measures provided in such a case primarily concern blockade operations before the Polish harbors and the blockading of the Danzig Bay and the usual measures concerning the security of the North Sea and of the Baltic.

4. The time limit for the elaboration by the group command is shown under No. 25 of the directive.

BY ORDER:

Signed (in draft) Schniewind

Correct copy:

[Illegible Signature]

Lt. Commander

[Signature illegible]

Lieutenant Commander

[Stamp] Top Secret

Enclosure to High Command of the Navy A I. Op 46/39 Top Secret
Matter for Chiefs

[Stamp]

Matter for Chiefs

Control No. 8

Through Officer only

Directive for the preparation of an operation against Danzig

1. The High Command of the Army has been charged with making preparations for a *surprise* occupation of Danzig.

2. Special emphasis is to be placed on the secrecy of the preparations.

Aside from the commanders and chiefs of staff of the authorities who participate in the preparation and execution, the aim of the operation must be kept secret to the last, except from the most limited circle of persons working on it. That is why preparations must be made so as to hide their purpose from a larger circle—including the participating naval forces.

The operation must be camouflaged up to zero hour.

3. *Assuming* that Poland will not take a hostile attitude *before* the occupation of Danzig, it is to be checked together with Corps Headquarters I, how far the navy is in a situation to support the mission of the army.

Commitment of Naval Landing Corps is possible only for the security of the mooring places.

4. Provision must be made for reconnaissance and security

against possible Polish operations while carrying out this operation.

5. In addition, the preparation must take into consideration that hostile measures against Poland, for instance, bombardment or occupation of the Westerplatte will not be taken as long as Poland does not oppose the operation by force of arms on its own initiative.

Combat actions against the Polish Navy, naval air forces or coastal batteries may be initiated on the principle: "The enemy must have fired the first shot."

[Handwritten marginal note] *Here* any restriction is removed, and rightly so. This is to say only by depth-charges or artillery fire.

Polish submarines traveling in the proximity of our own forces must be compelled to surface *by all means*. Antiaircraft artillery action against Polish aircraft will be permissible only *in the event* that their conduct shows clearly their intention to attack.

6. Measures will have to be slanted so that any resistance in Danzig, coming either from the Westerplatte or in Neufahrwasser will be broken immediately even by the commitment of naval artillery and so that the intended execution of the operation may be continued.

7. For all three branches of the armed forces the operation against Danzig carries the uniform code word:

"Transport Exercise Stolpmuende"

Correspondence will show this code word.

8. The over-all direction of the operations against the area of the Danzig Free State is in the hands of the Commanding General I Army Corps (Command Post Corps Headquarters Koenigsberg).

The Navy Group Commander East is charged with the preparation and execution of the operations of the navy including the naval air forces. The command for execution will be given by the Commander in Chief Navy.

9. The navy group commander has been instructed to work directly with Corps Headquarters I East Prussia and the Air Force Command East Prussia for the preparation and execution. These have been charged with the preparation and execution of the operation by the two other chiefs of the armed forces.

The naval liaison officer with Corps Headquarters I East Prussia will receive his pertinent orders directly from the navy group commander. The navy group commander is authorized, if necessary, to assign additional officers as liaison officers of the group

command to the staffs of army and air force in East Prussia for current or special missions as an additional duty by agreement with the Station Command of the Baltic and the Commander Air Forces.

10. The Special mission of the navy is to secure the Danzig Bay against Polish forces, entrance into Neufahrwasser, protection against the Westerplatte, and the appearance of the German warships as protection and support of the German population.

The point at issue is that the entrance into Neufahrwasser of the naval forces assigned at the established "zero hour," comes as a complete surprise, and that the occupation of the quays is carried out immediately.

As far as available forces permit—without interference with the main mission—any requests by the army or air force to accept additional missions are to be fulfilled, for instance, security toward or on the seas for approach elements of these two branches of the armed forces.

11. *Directives for the carrying out of the mission.* The dispositions concerning the operation must be laid out so that the *Danzig police which is subordinate to the army* will secure and hold the City of Danzig until the arrival of army and/or Luftwaffe elements. The quays of the naval forces are to be secured by landing corps. The Danzig population will support the German Wehrmacht with all means.

12. The natural desire to spare the German City of Danzig and its population in the course of the execution of the occupation must not interfere with a decisive commitment of all weapons—including board artillery—if enemy resistance makes it necessary.

* * * * *

22. Directives issued for "Case White," apply should war with Poland break out *after* "Transport Exercise Stolpmuende" has been executed.

A certain amount of alertness of armament, in particular that of the antiaircraft weapons is to be kept on board the naval forces participating after the carrying out of the operation until further notice as a precautionary measure.

23. After receipt of the implementation order, the High Command will send two officers to East Prussia as liaison officers of the Naval War Staff with Corps Headquarters I and Air Force Commander East Prussia. These officers also may function as liaison officers of the group command and/or of the commanders assigned by the navy for the operation against Danzig.

24. It is of particular importance that all possibilities for an energetic participation of the navy will be employed in the course of the operation against Danzig.

As soon as consultations with Corps Headquarters I bring up points requiring additional directives of the High Command, these directives are to be applied for.

25. The Navy Group Command East will report completion of these preparations by approximately the end of May 1939.

PARTIAL TRANSLATION OF DOCUMENT NOKW-2584
PROSECUTION EXHIBIT 1084

AN "ESTIMATE OF THE SITUATION" COMPILED BY WORKING STAFF RUNDSTEDT ON 7 MAY 1939, AND MEMORANDUM FROM WORKING STAFF RUNDSTEDT TO ARMY GROUPS 3 AND 5, AND XVI ARMY CORPS, 23 MAY 1939

Working Staff Rundstedt

Berlin, 7 May 1939

Ia No. 91/39 Top Secret Matter for Chiefs

[Stamp]

Matter for Chiefs

Through officer only!

[Handwritten] 2 copies—1st copy

Estimate of the situation

[Stamp] Top secret

It must be assumed that the Poles will be ready for battle with all their forces.

Their attitude is dependent on *commitments* entailed by possible treaties with other powers. In any event these will require the Poles to *defend* themselves.

1. If the Poles can count *only on uncertain aid*, or none at all, it only remains for them to fight for the existence of the state if indeed they have the will to fight at all in such a case.

In this situation it must be assumed that they will start resistance at the borders, supported by permanent and improvised fortifications, and then, fighting, will gradually withdraw behind the San, the Vistula, and the Narew rivers. A possible *last* line may be Brody—Bug to Brest, Litovsk—Grodno. There is the Soviet border in the rear, but the area in the West, important from the point of view of war economy, is abandoned.

For us it is in that case a question of pushing forward with strong units (mobile) of the 14th Army, and then from East Prussia to Lublin *eastward* of the Vistula across the San, in order to

smash the bulk of the Polish Army, thus preventing any resistance behind the Vistula and in order to fight the decisive battle around Warsaw and not further east.

2. If the Poles count on *speedy and certain aid* from other powers they will make a stand with the bulk of their forces west of the Vistula, offer stubborn resistance and withdraw step by step behind the San—Vistula—Narew line.

In this case also it must be considered to advance with mobile forces of the 14th Army along the eastern bank of the Vistula.

As for the rest in this case the decision may be made already west of the Vistula, between the Vistula and the Warta [Warthe].

For us it is a question of *concentrating* all units on the west and south banks for this and of not splitting up eastward.

Estimate of enemy forces—At the worst the Poles will have all their forces in the fray. In that case they have about 55 infantry divisions, 12 cavalry brigades, and 2 motorized units.

If, like the Czechs in autumn 1938, they were to make the mistake of defending their entire border from the beginning, then there will be 1 infantry division for approximately every 18 kilometers of the roughly 1,000 kilometer border. It can easily be pierced by concentrated forces at several points (*without* Danzig and *without* the Slovak border).

It may be assumed, therefore, that they will hold the extensive borderline only with *smaller* forces and keep considerable parts of their army *mobile*. They will not be very strong around *Poznan*.

Beyond the Warta River resistance will stiffen; mobile troops may be assumed to be (a) around Przemysl-Jaroslaw, (b) around Iwangorod, (c) around Warsaw, and (d) on the Narew. From there forces may be brought up by railway for partial offensives most quickly according to the situation.

Army Group South—a. All the 10th Army (focal point) has to do is to push through in deep formation and then to advance, without worrying about both flanks, on Warsaw.

In the *vanguard* will be the Panzer and light divisions and *behind*, as support, the infantry divisions (motorized); the whole will be supported by the air force and heavy artillery.

The infantry divisions then follow up as quickly as possible.

The 10th Army achieves its maneuverability, and the quick formation of focal points by the *formation in depth*, already guaranteed by the forces coming up in waves.

The prompt destruction or occupation of the few Vistula crossings is of *decisive* importance. This will block the road of the Polish Army west of the Vistula and will render more difficult the bringing up of reinforcements from the east and northeast.

b. *The 14th Army* takes over the security of the eastern flank toward Przemysl. An effective flank protection is best achieved if *strong* forces of this army advance east of the Vistula towards the San estuary. If the situation permits, the problem is to be solved by attack. In any case the Dunajek, in its further course the San, and finally the Wieprz, also offer a favorable defensive front toward the northeast.

Thus, although the 14th Army will always maintain the connection with the 10th, it will nevertheless dominate the area east of the Vistula by means of *mobile* units in order to delay a threat to the flank of the 10th Army from afar. It will then also be in a position to advance upon Warsaw with the units east of the Vistula if *no* advances are expected from the east.

The mountain division would be used in the best possible manner in the 14th Army from the beginning.

In the course of the advance of the 10th Army, the construction of *crossings* over the Vistula is important in order to maintain the connection within the 14th Army and to move highly mobile units towards the east across the stream if the situation favors the intervention of *stronger* forces east of the Vistula toward Warsaw.

The obscure industrial area around Beuthen-Katowice must be bypassed if possible on both sides, the drawing-in of stronger units must be avoided. The *fortifications* there must be encircled locally. The fortress of Krakow must be watched by rear guard units.

c. *The 8th Army*, if any thing, appears to be still too strong for its mission. Strong attacks are hardly to be expected from the direction of Poznan. By virtue of the advancing forces of the 4th Army, the Poles will have neither time nor room for this.

8th Army at first flank protection for the 10th Army in the north, until the situation is cleared up, will presumably be able to advance over Lodz to the Vistula very soon.

d. *Army Group South* (staff) with *working staff* will keep behind 10th Army as far as possible and will expediently choose the same command posts for reasons of lines of signal communication.

e. *Army group reserves* are to be kept at *such* a distance as will enable them to move up by rail or truck columns from the rear to the focal point.

It is the task of the army group on deploying the bulk of the reserves to create *new* ones in order effectively to keep the over-all operation moving from the rear.

[Signed] BLUMENTRITT

1st copy—Working Staff Rundstedt

2d copy—Oberquartiermeister I

Ia No. 2/39 Top Secret, Matter for Chiefs—Through officer only!

[Stamp] Top secret

4 copies—4th copy

To:

The Chief of Army Group Command 3, Brigadier General Felber, Dresden, 1st copy

The Chief of Army Group Command 5, Brigadier General v. Mackensen, Vienna, 2d copy

The Chief of the XVI Army Corps (for the 10th Army), Brigadier General Paulus, Berlin, 3d copy

1. The "Working Staff Rundstedt," consists for the beginning—similar to the "Working Staff Leeb," in Munich in 1938—only of three persons.

a. General v. Rundstedt in Kassel.

b. Major General v. Manstein, commander of the 18th Infantry Regiment in Liegnitz.

c. Colonel Blumentritt, chief of the 4th Department in Berlin.

2. Major General v. Manstein has authorized me to continue to deal from here under, "By order," with all those current tasks which do *not* require a decision by the commander in chief and the army group chief.

Since the tasks in the 4th Department have to be taken care of during the day, I can only carry out the special task subsequently. I would therefore be especially grateful for some aid since with the present work load I do not want to call on one of the four officers of the 4th Department.

3. At first it is intended to compile the *orders of battle* here in Berlin, to mimeograph them and then to send them to the armies.

Please let me have the final orders of battle, as they are intended by the armies, by 15 June.

According to Commander in Chief of the Army—1st Department—(I) General Staff of the Army No. 4150/39 Top secret, dated 1 May 1939, enclosure 1, "survey of strength and organization," c.—b. (b)—*army troops*—only the chemical Bn. of all the *army troops directly* subordinate to the army group will at first be subordinated to the 10th Army.

All the other *army troops* listed under b. (b) remain for the time being reserves of the Army Group.

Concerning the information requested as to the final orders of battle within the armies, the intended distribution of the forma-

tions and units listed in enclosures 1, 2, and 3 and subordinated to the *armies* at the outset, will be sufficient.

* * * * *

BY ORDER:

[Signed] BLUMENTRITT

PARTIAL TRANSLATION OF DOCUMENT C-126 C*
PROSECUTION EXHIBIT 1082

DIRECTIVE FROM COMMANDER IN CHIEF OF THE NAVY,
16 MAY 1939, CONCERNING "CASE WHITE,"
INITIALED BY SCHNIEWIND

[Stamp] Top Secret

To be executed by the C in C Navy

Berlin, 16 May 1939

The Commander in Chief of the Navy
Diary No. 1/Naval War Staff Ia Op 48/39
Top Secret, Matter for Chiefs

[Stamp]

Matter for Chiefs
Through officer only

Directive

I. Write:

Group East	—	Control No. 1
Station N [North Sea]	—	Control No. 16
Station N [North Sea] for Group West	—	Control No. 2

For information to:

Fleet	—	Control No. 3
Commander of Reconnaissance Forces	—	Control No. 4
Commander of Torpedo-Boat Flotilla	—	Control No. 5
Commander of Submarines	—	Control No. 6
Commander of Naval Forces	—	Control No. 7
Commander of Air Forces	—	Control No. 8
Commander of Security of the Baltic	—	Control No. 9
Commander of Security of the North Sea	—	Control No. 10
General of the Air Force attached to the CinC Navy		Control No. 11

[Handwritten] dispatched, 18 May 1939 [initial]

[Handwritten] (1) Correspondence is to be carried out by

(2) In the covering letter * * * reason for immediate issuance of orders.

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. VI, pp. 932-938, for extract of Document C-126.

Subject: Directive "Case White."

I. *Fuehrer Directive*

The Fuehrer has issued the following directive:

"Case White"

Poland's present attitude makes it necessary to arrange for military preparations beyond securing the frontiers in the East in order to exclude, if necessary, any threat from this direction in future.

1. Political prerequisites and aim.—The German relations with Poland continue to be subject to the principle of avoiding friction. In case Poland should change her policy with regard to Germany, so far based on the same principle, and adopt a threatening attitude towards the Reich, then* a final settlement may become necessary. The aim will then be to crush the Polish military strength and to establish a situation in the East in accordance with the requirements of national defense. At the latest at the beginning of the conflict, the Danzig Free State will be declared German territory.

* * * * *

2. *Military conclusions.*—The main aims in building up the German Armed Forces continue to be determined by the antagonism of the Western Democracies. "Case White" is solely a supplement to preparations as a precaution, but is by no means to be regarded as the prerequisite for a military conflict with the opponents in the West. The more it is possible to start the war with surprising vigorous blows and to obtain quick successes, the more the isolation of Poland will be maintained also past the beginning of the war.

* * * * *

3. Tasks for the armed forces.—It is the task of the armed forces to destroy the Polish Armed Forces. To this end, an attack by surprise is to be aimed at and to be prepared. The camouflaged or open general mobilization will only be ordered on the day before the attack at the latest time possible.

* * * * *

4. Tasks for the Navy

In the Baltic, the navy has the following tasks:

1. Destroying, and/or eliminating, the Polish Naval Forces.

* Here the words, "in spite of the treaty in force," were crossed out.

II. *Tasks for the army*

The operational aim of the army is the destruction of the Polish Army. Army Group Command I Berlin is commissioned to take over the conduct of the operations to which, for "Case White", 3d Army, Koenigsberg, is subordinated.

* * * * *

III. *Tasks of the air force*

Besides the destruction of the Polish Air Force within the shortest time possible, the following tasks are of primary importance for the air force:

1. Disrupting Polish mobilization and preventing the Polish Army from concentrating according to plan.

* * * * *

Air Fleet Command 1 Berlin is commissioned with the conduct of the operations of the air force.

IV. *Instructions from the Commander in Chief Navy*

* * * * *

2. *Command*—I charge Group Commander East with the preparation and execution of the operations and security measures of the navy including naval air-arm units, in the Baltic.

* * * * *

3. *The initial operations of the navy against Poland*

* * * * *

h. Preliminary deliberations of the Naval War Staff—The preliminary deliberations of the Naval War Staff regarding the execution of the operations are added as enclosure for utilization in the preparations.

* * * * *

5. *Action to be taken by our own forces*

* * * * *

a. Commencing at Y-hour, all Polish Naval, Air, and Ground Forces as well as all Polish merchantmen are to be treated as enemies.

* * * * *

In order to maintain the fiction of hits by mines, the sinking without warning of Polish and neutral merchantmen, which have

broken through the blockade, is permitted for the submarines committed within the Danzig Bay, and waiting in positions, only from Y-hour plus 14 hrs. on. Polish and neutral ships in an armed Polish convoy may be sunk from Y-hour on at any time without warning.

* * * * *

b. Contact, as unobtrusive as possible, is to be maintained with Polish naval forces and merchantmen which are met at sea before Y-hour * * *. [Crossed out] Lining up to carry out the blockade, however, is to be accomplished by force of arms if necessary. [Handwritten] cancelled in accordance with 1st Naval War Staff Ia 76/39 dated 1 July 1939.

c. War against neutral merchantmen is not intended for the time being, except in cases where the blockade was broken and in cases of ships moving in a Polish convoy.

* * * * *

d. The declaration in which, at the beginning of Y-hour, the blockade of the Polish coast and the laying mines off Polish harbors is to be announced, is being drawn up by the Naval War Staff. Since it will be expedient not to let the existence of a state of war appear formally, a deviation from the pattern of a regular declaration of blockade and mine warning is expected.

* * * * *

d. Since it must be considered that the *alert* for "Case White," may last a prolonged period of time, it cannot be expected with certainty that the forces * * * will be ready for use at any time.

* * * * *

8. *Y-hour, time for preparation and deployment.*

a. Y-hour can be considered to be a time in the early hours of the morning, *two hours before dawn*, (3 hours before sunrise). This time has been demanded by the navy as a prerequisite for the measures planned and has been accepted by the OKW.

* * * * *

V. *Deadline for the preparations*

Upon instruction of the Fuehrer, "Case White" is to be prepared in such a manner, that the execution is possible at any time from 1 September on.

* * * * *

The Commander in Chief of the Navy

[Signed] RAEDER

16 May

* * * Copy No. 12 with Chief 3/Naval War Staff to remain with Chief A II

Copy No. 13 with Chief A VI, to remain with Chief A IV

Copy No. 14 with Chief Naval Ordnance Chief B, Chief E, Chief C, Chief MPA, to remain with 1/Naval War Staff

Copy No. 15 circulated at Chief Consultant 1/Naval War Staff and Lieutenant Commander Junge (OKW)

Copy Nos. 16-18 Reserve with 1/Naval War Staff

[Handwritten:] 16—Station North Sea

17—for information to Adjutant
of the Fuehrer

Naval War Staff

1/Naval War Staff

[Initial] S [SCHNIEWIND]

Ia Ic

[Illegible initial] [Illegible initial]

9 May

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2879
PROSECUTION EXHIBIT 1380

NOTE AND TWO ENCLOSURES CONCERNING CONFERENCE OF
9 MAY 1939, ATTENDED BY SCHNIEWIND

[Stamp] Top Secret

Kiel, 16 May 1939

Note

On 9 May [19]39, there was a conference at the office of the Group Commander East, with the Chief of Staff of the Naval War Staff, Commodore Schniewind, in the presence of the A I and A II of Group Command East. In the course of this, the group command presented the points stated in enclosures 1 and 2.

[Handwritten marginal note] 2 enclosures.

It concerned essentially an exchange of opinion with regard to the most important questions which were stated in the treatise on "Conduct of Warfare in the Baltic," and, "Approaches to the Baltic." Commodore Schniewind stated that the viewpoints regarding the conduct of offensive warfare against Russia were shared by the High Command. He said that in a few weeks new directives

can be expected to be issued to the group command. Concluding, the commander emphasized the necessity to obtain a decision from the Commander in Chief of the Navy as soon as possible.

AI
[Illegible initial]
16 May

Top Secret

[Handwritten] Conference with Commodore Schniewind on 9 May 1939, at the office of the Group Commander East.

In the treatise on the "Conduct of Warfare in the Baltic," and, "Approaches to the Baltic, Their Importance and Protection," a number of basic questions have been touched upon.

1. The advantages and disadvantages of the *offensive solution* are discussed in detail in the treatise. The group command has become convinced that the defensive solution with its nucleus in the warning area in the line Oeland-Bruesterort, cannot be upheld because in this case the ore imports, decisive for the war, cannot be protected, and the area of the Baltic north of the barrier is left to the enemy and will provoke him to disregard the neutrality of the Baltic countries. *It was therefore requested to instruct the group command to conduct the war offensively by closing the Gulf of Finland.*

2. The two treatises have resulted in a number of demands.

* * * * *

3. *The new situation with regard to Poland* requires that the group command be informed, the prospect of which has already been held out by the High Command, of the *operations planned for the other branches of the armed forces*. It is specially in the interest of the conduct of warfare in the Baltic, in view of the combat missions versus Russia, that the army eliminate Gdynia speedily. Next to eliminating the Polish Naval Forces, it seems primarily necessary to eliminate also the air bases at Gdynia, Putzig, and in the Corridor, to decrease this very dangerous threat to Pillau. It would, therefore, be most desirable if the army could manage to take Gdynia within a short time, in the interest of iron ore imports from Sweden which are also important for the army. As far as it can be perceived here, it will be necessary to request also that the operational air force be committed for this task.

* * * * *

6. *Operative preliminary work*—It is considered necessary to establish close contact with the High Commands of the other two branches of the armed forces with regard to the conduct of warfare in the Baltic. It has also been emphasized several times by the High Command that it would not be feasible for the German conduct of warfare in the Baltic if the Aland islands, or Oesel and Dagoe, as well as Finnish, Estonian, and Latvian bases, were in Russian hands. If, for political reasons, Germany cannot decide to make the first move, it seems necessary to obtain clarification how such a move can be met without us taking too much of a back seat in this matter.

* * * * *

8. Discussions have already been initiated with the commander of Air Fleet 1, General Kesselring, which are to prepare cooperation between the group command and Air Fleet 1. It is necessary to commit the operational air force in the Baltic with respect to Russia not only in case of defensive but also of offensive behavior. Beyond that, under certain circumstances it also enters consideration to commit the air force in the sea areas of the Kattegat, if England should undertake to intrude into this territory. It has therefore been requested that the Naval War Staff make a corresponding request to the High Command of the Air Force and/or the armed forces command.

* * * * *

Conference with Commodore Schniewind on 9 May 39

I. *Approaches to the Baltic*—*Securing the Baltic by means of mines provides for, by order of the High Command of the Navy, sealing off both Belts, the Sund, and the Straits of Gedser with mines against forces below and above water outside the territorial waters. The exit from the territorial waters is not to be closed.*

* * * * *

TRANSLATION OF DOCUMENT L-79
PROSECUTION EXHIBIT 1083

MINUTES OF FUEHRER CONFERENCE, 23 MAY 1939, CONCERNING
INDOCTRINATION ON THE POLITICAL SITUATION
AND FUTURE AIMS

Minutes of Conference of 23 May 1939

Top Secret
Through officer only

Place: The Fuehrer's Study, New Reich Chancellory.
Adjutant on duty: Lt. Col. (GSC) Schmundt.

Present:

The Fuehrer, Field Marshal Goering, Admiral of the Fleet Raeder, Gen. von Brauchitsch, Gen. Keitel, Gen. Milch, Lt. Gen. of Artillery Halder, Gen. Bodenschatz, Commodore Schniewind, Col. (GSC) Jeschonnek, Col. (GSC) Warlimont, Lt. Col. (GSC) Schmundt, Capt. Engel (Army), Lt. Comdr. Albrecht, Capt. v. Below (Army).

Subject: Indoctrination on the political situation and future aims

The Fuehrer defined as the purpose of the conference—

1. Analysis of the situation.
2. Definition of the tasks for the armed forces arising from that situation.
3. Exposition of the consequences of those tasks.
4. Ensuring the secrecy of all decisions and work resulting from these consequences. Secrecy is the first essential for success.

The Fuehrer's observations are given in systematized form below.

Our present situation must be considered from two points of view—

1. The actual development of events between 1933 and 1939.
2. The permanent and unchanging situation in which Germany lies.

In the period 1933–1939, progress was made in all fields. Our military situation improved enormously.

Our situation with regard to the rest of the world has remained the same.

Germany has dropped from the circle of great powers. The balance of power had been effected without the participation of Germany.

This equilibrium is disturbed when Germany's demands for the necessities of life make themselves felt, and Germany reemerges as a great power. All demands are regarded as "encroachments." The English are more afraid of dangers in the economic sphere than of the simple threat of force.

A mass of 80 million people has solved the ideological problems. So, too, must the economic problems be solved. No German can evade the creation of the necessary economic conditions for this. The solution of the problem demands courage. The principle, by

which one evades solving the problem by adapting oneself to circumstances, is inadmissible. Circumstances must rather be adapted to aims. This is impossible without invasion of foreign states or attacks upon foreign property.

Living space, in proportion to the magnitude of the state, is the basis of all power. One may refuse for a time to face the problem, but finally it is solved one way or the other. The choice is between advancement or decline. In 15 or 20 years' time we shall be compelled to find a solution. No German statesman can evade the question longer than that.

We are at present in a state of patriotic fervor, which is shared by two other nations—Italy and Japan.

The period which lies behind us has indeed been put to good use. All measures have been taken in the correct sequence and in harmony with our aims.

After 6 years, the situation today is as follows:

The national-political unity of the Germans has been achieved, apart from minor exceptions. Further successes cannot be attained without the shedding of blood.

The demarcation of frontiers is of military importance.

The Pole is no supplementary enemy. Poland will always be on the side of our adversaries. In spite of treaties of friendship, Poland has always had the secret intention of exploiting every opportunity to do us harm.

Danzig is not the subject of the dispute at all. It is a question of expanding our living space in the East and of securing our food supplies, of the settlement of the Baltic problem. Food supplies can be expected only from thinly populated areas. Over and above the natural fertility, thorough-going German exploitation will enormously increase the surplus.

There is no other possibility for Europe.

Colonies—Beware of gifts of colonial territory. This does not solve the food problem. [Remember]—blockade!

If fate brings us into conflict with the West, the possession of extensive areas in the East will be advantageous. We shall be able even less to rely upon record harvests in time of war than in peace.

The population of non-German areas will perform no military service, and will be available as a source of labor.

The Polish problem is inseparable from conflict with the west.

Poland's internal power of resistance to bolshevism is doubtful. Thus Poland is of doubtful value as a barrier against Russia.

It is questionable whether military success in the West can be achieved by a quick decision; questionable too, is the attitude of Poland.

The Polish Government will not resist pressure from Russia. Poland sees danger in a German victory in the West and will attempt to rob us of the victory.

There is, therefore, no question of sparing Poland, and we are left with the decision—

To attack Poland at the first suitable opportunity

We cannot expect a repetition of the Czech affair. There will be war. Our task is to isolate Poland. The success of the isolation will be decisive.

Therefore, the Fuehrer must reserve the right to give the final order to attack. There must be no simultaneous conflict with the Western Powers (France and England).

If it is not certain that a German-Polish conflict will not lead to war in the West, then the fight must be primarily against England and France.

Fundamentally therefore — Conflict with Poland, — beginning with an attack on Poland will only be successful if the Western Powers keep out of it. If this is impossible, then it will be better to attack in the West and to settle Poland at the same time.

The isolation of Poland is a matter of skillful politics.

Japan is a weighty problem. Even if at first for various reasons her collaboration with us appears to be somewhat cool and restricted, it is nevertheless in Japan's own interest to take the initiative in attacking Russia in good time.

Economic relations with Russia are possible only if political relations have improved. A cautious trend is apparent in press comment. It is not impossible that Russia will show herself to be disinterested in the destruction of Poland. Should Russia take steps to oppose us, our relations with Japan may become closer.

If there were an alliance of France, England, and Russia against Germany, Italy, and Japan, I would be constrained to attack England and France with a few annihilating blows. The Fuehrer doubts the possibility of a peaceful settlement with England. We must prepare ourselves for the conflict. England sees in our development the foundation of a hegemony which would weaken England. England is therefore our enemy, and the conflict with England will be a life-and-death struggle.

What will this struggle be like? England cannot deal with Germany and subjugate us with a few powerful blows. It is imperative for England that the war should be brought as near to the Ruhr basin as possible. French blood will not be spared (West Wall). The possession of the Ruhr Basin will determine the duration of our resistance.

The Dutch and Belgian air bases must be occupied by armed force. Declarations of neutrality must be ignored. If England and France intend the war between Germany and Poland to lead to a conflict, they will support Holland and Belgium in their neutrality and make them build fortifications, in order finally to force them into cooperation.

Albeit under protest, Belgium and Holland will yield to pressure.

Therefore, if England intends to intervene in the Polish war, we must occupy Holland with lightning speed. We must aim at securing a new defense line on Dutch soil up to the Zuider Zee.

The war with England and France will be a life-and-death struggle.

The idea that we can get off cheaply is dangerous; there is no such possibility. We must burn our boats, and it is no longer a question of justice or injustice, but of life or death for 80 million human beings.

Question: Short or long war?

Every country's armed forces or government must aim at a short war. The government, however, must also be prepared for a war of 10–15 years' duration.

History has always shown that the people have believed that wars would be short. In 1914, the opinion still prevailed that it was impossible to finance a long war. Even today this idea still persists in many minds. But on the contrary, every state will hold out as long as possible, unless it immediately suffers some grave weakening (e.g., Ruhr Basin). England has similar weaknesses.

England knows that to lose a war will mean the end of her world power.

England is the driving force against Germany. Her strength lies in the following:

1. The British themselves are proud, courageous, tenacious, firm in resistance, and gifted as organizers. They know how to exploit every new development. They have the love of adventure and bravery of the Nordic race. Quality is lowered by dispersal. The German average is higher.

2. World power in itself. It has been constant for 300 years. Extended by the acquisition of allies. This power is not merely something concrete, but must also be considered as a psychological force embracing the entire world. Add to this immeasurable wealth, with consequential financial credit.

3. Geopolitical safety and protection by strong manpower and a courageous air force.

England's weakness.

If in World War I we had had two battleships and two cruisers

more, and if the battle of Jutland had begun in the morning, the British Fleet would have been defeated and England brought to her knees. It would have meant the end of the war. It was formerly not sufficient to defeat the fleet; landings had to be made in order to defeat England. England could provide her own food supplies. Today that is no longer possible.

The moment England's food supply routes are cut, she is forced to capitulate. The import of food and oil depends on the fleet's protection.

If the German Air Force attacks English territory, England will not be forced to capitulate in one day. But if the fleet is destroyed, immediate capitulation will be the result.

There is no doubt that a surprise attack can lead to a quick decision. It would be criminal, however, for the government to rely entirely on the element of surprise.

Experience has shown that surprise may be nullified by—

1. Disclosure outside the limit of the military circles concerned.
2. Mere chance, which may cause the collapse of the whole enterprise.
3. Human failings.
4. Weather conditions.

The final date for striking must be fixed well in advance. Beyond that time, the tension cannot be endured for long. It must be borne in mind that weather conditions can render any surprise intervention by navy and air force impossible.

This must be regarded as a most unfavorable basis of action.

1. An effort must be made to deal the enemy a significant or the final decisive blow. Considerations of right and wrong, or treaties, do not enter into the matter. This will only be possible if we are not involved in a war with England on account of Poland.

2. In addition to the surprise attack, preparations for a long war must be made, while opportunities on the continent for England are eliminated.

The army will have to hold positions essential to the navy and air force. If Holland and Belgium are successfully occupied and held, and if France is also defeated, the fundamental conditions for a successful war against England will have been secured.

England can then be blockaded from western France at close quarters by the air force, while the navy with its submarines can extend the range of the blockade.

Consequences.

England will not be able to fight on the continent.

Daily attacks by the air force and navy will cut all her life lines.

Time will not be on England's side.

Germany will not bleed to death on land.

Such strategy has been shown to be necessary by World War I and subsequent military operations. World War I is responsible for the following strategic considerations which are imperative:

1. With a more powerful navy at the outbreak of the war, or a wheeling movement by the army toward the channel ports, the end would have been different.

2. A country cannot be brought to defeat by an air force. It is impossible to attack all objectives simultaneously and the lapse of time of a few minutes would evoke defensive counter measures.

3. The unrestricted use of all resources is essential.

4. Once the army, in cooperation with the air force and navy, has taken the most important positions, industrial production will cease to flow into the bottomless pit of the army's battles and can be diverted to benefit the air force and navy.

The army must therefore be capable of taking these positions. Systematic preparation must be made for the attack.

Study to this end is of the utmost importance.

The aim will always be to force England to her knees.

A weapon will only be of decisive importance in winning battles, so long as the enemy does not possess it.

This applies to gas, submarines, and the air force. It would be true of the latter for instance, as long as the English Fleet had no available counter measures; it will no longer be the case in 1940 and 1941. Against Poland, for example, tanks will be effective, as the Polish Army possesses no counter measures.

Where straightforward pressure is no longer considered to be decisive, its place must be taken by the elements of surprise and by masterly handling.

This is the plan of attack.

The plan demands—

1. A correct estimate of weapons and their effectiveness, e.g.,

(a) Battleship or aircraft carrier; which is the more effective? Individually or considered as a whole? The aircraft carrier is the better protection for a convoy.

(b) Is air attack more important on a factory than on a battleship? Where are bottlenecks in production located?

2. Immediate preparedness on the part of the army. The army must move straight from its peacetime stations to overrun neighboring states.

3. A study of the enemy's weak points.

These studies must not be left to the General Staffs. Secrecy would no longer be guaranteed.

The Fuehrer has, therefore, decided to order the formation of a small Planning Staff at OKW. It will include representatives of the three services, and, as and when necessary will call upon the services of the three Commanders in Chiefs or Chiefs of Staff.

This staff will keep the Fuehrer informed and report to him.

The Planning Staff is responsible for the planning of operations on the highest level, and of the technical preparations and organization necessarily required by the decisions taken.

The purpose of certain regulations concerns no one outside the staff.

However great are the increases in the armaments of our adversaries, they must, at some time, come to the end of their resources, and ours will be greater. French recruiting—120,000 men in each age class!

We shall not be forced into a war, but we shall not be able to avoid one.

Secrecy is the decisive requirement for success. Our object must be kept secret even from Italy or Japan. The break-through through the Maginot Line is still a possibility for Italy, and must be studied. The Fuehrer considers that such a break-through is possible.

The close combination of the services, for the study of the problem in its entirety, is important.

The object.

1. Study of the problem in its entirety.
2. Study of the procedure.
3. Study of the necessary requirements.
4. Study of the necessary training.

The staff must include men with great imaginative power and the best technical knowledge, as well as officers of sober and skeptical judgment.

Working principles.

1. No one must be admitted who is not concerned.
2. No one may know more than it is necessary for him to know.
3. When must the person concerned know, at latest? No one may know of a matter earlier than is necessary for him to know of it.

At the request of Field Marshal Goering, the Fuehrer decrees that:

a. The various services shall decide what construction is to be undertaken.

b. There shall be no alterations in the shipbuilding program.

c. The armaments programs are to be postponed to 1943 or 1944.

Certified correct record:

[Signed] SCHMUNDT, Lt Col.

PARTIAL TRANSLATION OF DOCUMENT NOKW-229
PROSECUTION EXHIBIT 1087

LETTER FROM COMMANDER IN CHIEF OF THE ARMY,
VON BRAUCHITSCH, 15 JUNE 1939, ENCLOSING
DEPLOYMENT DIRECTIVE FOR "CASE WHITE"

[Stamp] Top Secret

[Handwritten] Working Staff Rundstedt

The Commander in Chief of the Army Berlin, 15 June 1939
1st Section (I) Army General Staff 21 copies
No. 4200/39, Top Secret Control No. 2

[Stamp]

Matter for Chiefs

Through officer only

To "Working Staff Rundstedt," Army Group Command 1

Attached hereto is transmitted the Deployment Directive for "Case White."

The *draft* of the Deployment Directive, "Case White" will be destroyed insofar as it has been forwarded to the offices listed under distribution. (C in C of Army, 1st Section (I) Gen. Staff of Army No. 4150/39 Top Secret dated 1 May 1939.) [Handwritten] ("Draft" (control No. 1) at present with major general)

By 20 July there will be submitted—

1. *By Working Staff Rundstedt—*

a. *Copy of the most important orders given to the army command on the basis of the Deployment Directive.*

b. *Map 1: 300,000 with disposition.*

c. *Result of agreements with Air Fleet Command 4. Any detailed requests for support by the air force.*

2. *By Army Group Command 1—*

a. *Copy of the most important orders given to the army commands on the basis of the Deployment Directive.*

b. Map 1: 300,000 with disposition.

[Handwritten] Working Staff Rundstedt

Ia No. 18/39 Top Secret, dated 19 June 1939.

c. Result of agreements with Air Fleet Command 1 and Naval

Group Command East.

Any detailed requests for support by the air force.

[Signed] v. BRAUCHITSCH

Distribution:

Working Staff Rundstedt	—	Control Nos. 1 and 2 held by Major General von Man- stein
		[Initial] Bl
Army Group Command 1	—	Control No. 3
Army Group Command 3	—	Control No. 4
Army Group Command 4	—	Control No. 5
Army Group Command 5	—	Control No. 6, for information
Army Group Command 6	—	Control No. 7
I Army Corps Head- quarters	—	Control No. 8
High Command of the Armed Forces	—	Control No. 9
Reich Minister of Aviation and C in C Air Force	—	Control No. 10
Gen. of Air Force with C in C Army	—	Control No. 11
<i>High Command of the Army</i> Chief of Army General Staff	—	Control No. 12
Oberquartiermeister I	—	Control No. 13
Section 5	—	Control No. 14
Section 6	—	Control No. 15
General Army Office/Staff	—	Control No. 16
Section 1	—	Control Nos. 17-20
High Command of the Navy	—	Control No. 21

* * * * *

[Stamp] Top Secret

Through officer only
21 copies
Control No. 2

Part A
Section I

Intention of the Commander in Chief of the Army and Missions

1. *Intention of Commander in Chief of the Army*—Purpose of the operation is the destruction of the Polish Armed Forces. The political leadership demands that the war should be opened with strong surprise blows and be led to quick success.

It is the intention of the Commander in Chief of the Army to prevent an orderly mobilization and assembling of the Polish Army by a surprise invasion of Polish territory and to shatter the bulk of the Polish Army to be expected west of the line Vistula-Narew by concentric attack from Silesia on one hand, and from Pomerania-East Prussia on the other hand.

The action to be expected against this operation from Galicia must be eliminated. [Handwritten] (14th Army).

The basic plan of destroying the Polish Army west of the line Vistula-Narew, while eliminating the action to be expected from Galicia, remains unchanged even if, owing to preceding tensions, an increased defensive readiness of the Polish Army must be expected. In this case it may be necessary to wage the first attack not predominantly with armored and motorized forces, but to await the approach of stronger nonmotorized units. The moment of crossing the frontier will then be fixed by the commander in chief of the army for a correspondingly later date. The endeavor to reach a quick success must be maintained.

Army group commands and army commands will make their preparations on the basis of surprising the enemy. The changes necessary in case the surprisē moment has to be renounced, will have to be developed simply and speedily from this foundation; they must be prepared in theory in such a way that, in the case of an order by the Commander in Chief of the Army, they can be put into operation expeditiously.

2. For the execution of these tasks, *Army Group South*, consisting of the 14th, 10th, and 8th Army, and *Army Group North*, consisting of the 4th and 3d Army, will be formed. * * *

3. *First tasks of Army Group South.*

* * * * *

4. *First task of Army Group North*—Army Group North, going into action on Y-day, with the cooperation of Pomeranian and East Prussian forces, will establish the link between the Reich and East Prussia.

With a strong group of forces (bulk of the 3d Army) to be organized in the area around Neidenburg, it will attack on Y-day,

with the forces of the 3d Army and 4th Army linking up east of the Vistula, in the general direction of Warsaw *as soon as possible* with the aim of beating the enemy, who makes a stand north of the Vistula, by cooperation of the two groups of forces, and further on to destroy the Polish forces still holding out in western Poland, in cooperation with Army Group South.

From the *Oder-Warthe-* [Warta] *Bend* only weak forces are to be employed in order to deceive and pin down the adversary.

No forces of the army's first wave of attack are to be employed against Danzig. The liquidation of enemy forces in the area of Gdynia-Danzig, if necessary, must be left to units arriving later. The Free State of Danzig itself will be declared Reich territory on the outbreak of war. The city of Danzig will be secured by local units who on Y-day will be attached to Army Group North.

* * * * *

With the bulk of its forces, according to detailed instruction by Army Group North, the army will on Y-day attack across the frontier from the area around Neidenburg, with the aim of smashing enemy units located beyond the Narew River and further to advance across the Narew on Warsaw and eastward.

The Vistula crossing at Dirschau is to be taken by a surprise raid.

The East Prussian frontiers against Poland and Lithuania are to be secured with a minimum of forces. Feint tactics are to be provided against Poland.

* * * * *

10. *Headquarters—*

<i>Army Group South</i>	<i>Neisse</i>
14th Army.....	<i>Neutitschein</i>
10th Army.....	<i>Oppeln</i>
8th Army.....	<i>Breslau</i>
<i>Army Group North</i>	<i>Bad Polzin</i>
4th Army.....	Jastrow
3d Army.....	Mohrungen

* * * * *

13. *Oder and Vistula crossings—*Army Group South will devote its attention to an early increase in the possibilities of crossing the Oder, especially in the 10th Army area. The Army High Command will furnish emergency construction material for about four bridges in the course of the summer of 1939. *Army Group North* will prepare the speedy construction of bridges across the Vistula by proper storing of the available material and by keep-

ing the necessary forces in readiness. A military railroad bridge is planned by the Army High Command. In the case of its construction, the Army Group North, upon request by the Field Chief of Transportation, has to put at the latter's disposal, 1 bridge building battalion and 1 construction battalion for this purpose.

* * * * *

[Signed] v. BRAUCHITSCH

TRANSLATION OF DOCUMENT C-126 F*
PROSECUTION EXHIBIT 1089

LETTER FROM HIGH COMMAND OF THE ARMED FORCES TO ARMY, NAVY, AIR FORCE, AND DEPARTMENT NATIONAL DEFENSE OF OKW, 22 JUNE 1939, CONCERNING PREPARATION FOR "CASE WHITE"

High Command of the Armed Forces
Armed Forces Operations Office
No. 66/39 Top Secret L (I)

Berlin, 22 June 1939

5 copies—2d copy

[Stamp] Top Secret

[Stamp]

Matter for Chiefs
Through officer only

Subject: Preparations for "Case White"

Reference: High Command of the Army 1st Section Army General Staff

4182/39 Top Secret, dated 13 June 1939.

High Command of the Navy, 1/Naval War Staff
Ia 45/39,

Matter for Chiefs, dated 15 April 1939.

Commander in Chief Air Force, 1st Section 5077/39,
Top Secret op 1, Matter for Chiefs, dated 29 April
1939.

[Initial] S [Schniewind]

[Stamp]

Commander in Chief Navy

A I op 72/39

Received: 25 June 1939

Enclosures:

OKW has submitted a "provisional Timetable," for "Case White," to the Fuehrer and Supreme Commander on the basis of material from the branches of the armed forces, available so

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. VI, pp. 932-938, for extract of Document C-126.

far. Details about the days preceding the attack and about the start of the attack were not contained in this timetable.

The Fuehrer and Supreme Commander has, on the whole, agreed to the plans of the armed forces branches as reported, and comments as follows on individual items:

1. In order to avoid undue anxiety for the population on account of the intended induction of army reservists for the 1939 maneuvers in excess of the customary numbers, civilian authorities, employers, or other nonofficial inquirers are to be told upon their inquiry, that the induction is for the fall maneuvers and for the training units to be used in these maneuvers.

[Handwritten] Taken care of

- (1) To be submitted to Office Chief A [Illegible initials] 28 May
- (2) Chief A II (with regard to item 1) and Chief A IV (with regard to items 1 and 4)
- (3) With Ic V 7 July
- (4) To Ia * * *
1/Naval War Staff

[Initial]

26 June

It is requested to instruct all subordinate authorities accordingly.

2. The evacuation of the hospitals in the frontier area planned by the High Command of the Army to start in the middle of July, must for the sake of camouflage, not take place.

3. It is to be examined whether the transfer of the SS artillery regiment to East Prussia, and its planned assignment there, is practical considering the recent reactivation of this regiment, or whether committing another army artillery regiment instead of the SS artillery regiment should be preferred.

Notify OKW of the examination results.

4. The Fuehrer and Supreme Commander will decide in the beginning of August whether training ships of the navy are to leave port according to plan.

The Chief OKW
[Signed] KEITEL

[Handwritten] A IV [Initial]
IVa [Initial] 28 June

Distribution:

High Command of the Army — 1 (Control No. 1)
High Command of the Navy — 1 (Control No. 2)

Reich Minister for Aviation and
Commander in Chief Air Force— 1 (Control No. 3)
High Command of the Armed
Forces (National Defense) — 2 (Control Nos. 4 and 5)

PARTIAL TRANSLATION OF DOCUMENT C-120*
PROSECUTION EXHIBIT 1079

LETTER FROM HIGH COMMAND OF THE ARMED FORCES,
24 JUNE 1939, CONCERNING "CASE WHITE"

Typed by Officer

[Stamp] Top Secret. Through Officer only

Berlin, 24 June 1939

High Command of the Armed Forces 5 copies—2d copy

Armed Forces Operations Office

No. 67/39 Top Secret, L (I)

[Stamp]

Matter for Chiefs

Through officer only

Subject: "Case White"

[Stamp] CinC Navy Ia

[Initials]

Section I op 76/39

Received 26 June 1939

Enclosure:

[Initials]

High Command of the Army is herewith directed to prepare all measures necessary for capturing intact the bridges over the lower Vistula. On the completion of preparations, the High Command of the Army will report briefly to the OKW.

[Handwritten in margin] This requires a *warning* before Y-hour, so as to cause no alarm. Even naval action off Gdynia etc., can only have an alarming effect. This, therefore, requires the consent of the High Command of the Army.

In addition, the Army and Navy High Commands will again examine whether the element of surprise in sudden attacks against the *Dirschau bridge* might be impaired by preceding actions of the navy in the Danzig Bay. In view of the importance of the bridge, it should be established whether the consent of the High Command of the Army to the intended measures of the navy (mining before Y-hour) is upheld.

The Chief of the OKW

[Signed] KEITEL

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. VI, pp. 916-928, for more complete translation of document.

24 June

Distribution:

High Command of the Army	—	1st copy
High Command of the Navy	—	2d copy
Reich Minister of Aviation and Commander in Chief Air Force	—	3d copy
Foreign Counterintelligence	—	4th copy
Armed Forces Operations Office/National Defense	—	5th copy

PARTIAL TRANSLATION OF DOCUMENT NOKW-2882
PROSECUTION EXHIBIT 1382

LETTER FROM HIGH COMMAND OF THE NAVY TO NAVAL GROUP
COMMAND EAST, 1 JULY 1939, CONCERNING "CASE WHITE",
SIGNED BY SCHNIEWIND

[Stamp] Top Secret

High Command of the Navy
Diary No. 1/Naval War Staff Ia 76/39,
Top Secret, Matter for Chiefs

[Stamp]
Matter for Chiefs
Through officer only

[Initial] 4 July (A-II)

[Stamp]

Naval Group Command East
Received: 3 July 1939
File No. Top Secret 170 Matter for Chiefs 282
[Handwritten] (A II) [Illegible initial] 3 July

Berlin, 1 July 1939

To the Commander of Naval Group Command East, Kiel

Subject: "Case White"

Reference: CinC Navy 1/Naval War Staff Ia Operations
48/39 Top secret—Matter for Chiefs of 16 May 1939.

I. The High Command of the Army has made the supplementary demand that Poland must under no circumstances be alarmed by any measures of the navy before the army has opened hostilities, since in the case of any premature warning one will have to count with the immediate blasting of the Vistula bridges, especially the bridge at Dirschau. The result of this would be that the operations of the army on the northern flank would be delayed *by several weeks*.

The army will cross the frontier at dawn on Y-day, the hour for this will be ordered at the latest on the day before Y-day. Simultaneously with the crossing of the frontier, the army will carry out measures to prevent the bridges across the Vistula at Dirschau being blown up.

Considering the decisive consequences of any possible demolitions of bridges in the course of the conduct of land warfare, which have the tasks deciding the war in "Case White", the request of the army must be granted.

II. Considering this new situation, the following supplementary instructions are given, thus changing the instructions previously given for "Case White":

1. Measures of any kind, especially mine laying measures and nuisance raiders, which could result in alarming the Polish Armed Forces or coastal defense, *may be carried out only immediately before the army crosses the frontier*, the hour for which will be ordered on the day before Y-day, that is, so late that an alarm of Poland will no longer be possible before the army crosses the frontier. *The measures planned at sea, insofar as they are recognizable, may be, at the most, 15 minutes ahead of this time.* The amount of light at the Y-hour ordered by the army remains uncertain, although it will be endeavored to fix *Y-hour at the first start of dawn.*

2. The last sentence of No. IV, 5b of the "Directive White" Naval War Staff, Operations 48/39 Top Secret, Matter for Chiefs: "the approach to carry out the mine laying measures, however, will be forced by resort to arms, if necessary" is rescinded.

3. Warning to the neutral shipping in the Polish harbors by the Naval War Staff can take place only at the Y-hour ordered by the army. We emphasize the necessity to avoid endangering any neutral ship before announcing the warning.

III. The evaluation of new findings necessitates the following new policies:

1. The inquiries initiated by the High Command of the Navy have shown that the small ports of the Hela peninsula, too, are being entered by neutral ships, although mainly of small size. It is, therefore, necessary that the mines, too, which are to be laid off these ports, be provided *with delay mechanism, if findings during the last days before Y-day indicate the presence of neutral ships in these ports.*

2. The High Command of the Army desists from a request to transfer troops on torpedo boats to Danzig.

IV. Group Command East will speedily report the changes in

operational objects resulting from above supplementary instructions.

[Signed] (in draft) SCHNIEWIND

Certified:

[Illegible signature]
Lt. Commander

PARTIAL TRANSLATION OF DOCUMENT C-126 B*
PROSECUTION EXHIBIT 1090

LETTER FROM HIGH COMMAND OF THE ARMY TO HIGH
COMMAND OF THE ARMED FORCES, 3 JULY 1939,
CONCERNING "CASE WHITE"

[Stamp] Top Secret

High Command of the Army
1st Section Army General Staff
No. 4204/39 Top Secret

3 copies—2d copy

Reference: OKW, Armed Forces Operations Office
No. 67/39 Top Secret L (I),
dated 24 June 1939

Subject: "Case White"

[Stamp]

CinC Navy
A I op 81/39
Received: 3 July 1939
[handwritten initial]

[Stamp]

Matter for Chiefs
Through officer only
[handwritten] Ia
[handwritten initials]
[handwritten] To the files of
"Case White", Book 2

Berlin, 3 July 1939

To High Command of the Armed Forces (National Defense)

High Command of the Army cannot approve the measures planned by the navy for the time before Y-hour—as far as such measures might become known to the enemy—and requests to make sure that no measures will be taken by other branches of the armed forces before the time the army crosses the frontier, which would neutralize the element of surprise.

The army will cross the frontier at dawn on Y-day.

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. VI, pp. 932-938, for extract of Document C-126.

The High Command of the Army assigned the task of uniformly preparing all measures to capture undamaged bridges across the Vistula to I Army Corps Headquarters.

It is requested to instruct the other branches of the armed forces and OKW authorities accordingly.

[Signed] v. BRAUCHITSCH

Certified:

[Signed] v. GREIFFENBERG

Distribution:

OKW (National Defense)	—	1st copy
High Command of the Navy	—	2d copy
Army Group Command 1	—	3d copy
I Army Corps Headquarters	—	4th copy
1st Section	—	5th copy

TRANSLATION OF DOCUMENT C-126 D*
PROSECUTION EXHIBIT 1093

RESUME OF CONFERENCE AT THE HIGH COMMAND OF THE
ARMED FORCES, CONCERNING ADVANCE MEASURES
FOR "CASE WHITE"

[Handwritten] [Illegible initial] 11 July
submit to Id

[Handwritten] Matter for Chiefs

[Stamp] Top Secret

To the file "Case White"
with Iac

[Illegible initial]

*Result of the Conference at OKW/(National Defense) II on
Timetables for Advance Measures*

Control No. 1

1. The advance measures as stated in timetables will be submitted to the Fuehrer for approval. Upon approval, every branch of the armed forces can start and carry out these measures according to its own judgment from the set time on.

2. The measures proposed by the navy, including the command and signal exercise Group East, create no difficulties since they can be camouflaged as measures for maneuvers.

* Ibid.

3. It is to be established uniformly for all branches of the armed forces—

a. Y-5 day and night duty of the higher staffs (of the army, group commands, and military district commands).

b. Y-3 branches of the armed forces further may extend day and night duty.

c. Y-4 turn on the Martha network.

d. Y-2 turn on jamming networks of the two other branches of the armed forces in the area of operations.

An earlier time for the Martha network is desired by the navy and requested by OKW/Armed Forces Signal Communications in order that the gradual completion at the Reich Post Office becomes possible.

e. Y-6 camouflaged cancelling of leaves, no recalls, especially not from abroad.

f. Y-2 tactical subordination of naval air units to CinC Navy.

4. Turning on of the counterintelligence network is intended from 3 August 1939 on.

Distribution:

Naval War Staff, 2 copies	—	Nos. 1 and 2
A II	—	No. 3
3/Naval War Staff	—	No. 4

[Initials] In 5 July

[Handwritten] 1. When shall Group leave?	} give	
2. When? How? In sub-		} also to
groups?		

PARTIAL TRANSLATION OF DOCUMENT NOKW-118*
PROSECUTION EXHIBIT 1091

COVERING LETTER FROM HIGH COMMAND OF THE ARMY,
24 JULY 1939, ENCLOSING SPECIAL REGULATIONS
CONCERNING SUPPLY IN "CASE WHITE"

[Stamp] Top Secret

[Handwritten] to be filed

D r a f t

High Command of the Army
Section 6 (II), Army General Staff
No. 183/39, Top Secret, Matter for Chiefs.

Berlin, 24 July 1939

23 copies—7th copy

* First page of original document crossed out and also marked "to be destroyed."

XIII

[Handwritten note]

Working Staff Rundstedt

Ia, No. 81/39, Top Secret, 25 July

[Handwritten] *Read!* [Initials] v. M.

[Handwritten] Commander in Chief

Subject: Case "White."

Reference: CinC Army 1st Section (I), Army General Staff No.
4200/39, Top Secret, dated 15 June 1939

Part A II, enclosure 4

Part A III, enclosure 4

High Command of the Army, 6th Section (I), Army General Staff,

No. 120/39, Top Secret, dated 15 June 1939

No. 121/39, Top Secret, dated 15 June 1939

No. 122/39, Top Secret, dated 15 June 1939

No. 123/39, Top Secret, dated 15 June 1939

No. 124/39, Top Secret, dated 15 June 1939

[Written across page] to be destroyed

Attached please find draft of the "Special Regulations pertaining to the Directives for the Supply" as a supplement to the decrees under reference (not distributed to all the offices mentioned in the distribution list.)

BY ORDER:

Signed: CRUEWELL

Certified:

[Signed] GUEFTZENS

Captain, GSC

Distribution:

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D r a f t

Special regulations pertaining to the instructions for the supply

* * * * * *

4. *Security measures in the army area*—In amendment of paragraph 9 of the Army Service Regulation, Secret, 2 [Army Manual H. Dv. g. 2] “Service Directives for the Units of the Army at War (valid accordingly for special commitment)” shortly to be issued, it is decreed:

a. Hostages—If the seizure of hostages is necessary, they and the population are to be notified that they will be shot in case of hostile actions committed by the population.

Until further notice, executions may only be carried out, after previously securing the consent of the High Command of the Army. A brief report by teletype to High Command of the Army, Army General Staff, Section 6, is required (to be submitted to army command [AOK] direct and through the official channels). Otherwise, the hostages are to be handed over to later arriving units and to be set free as soon as the danger is eliminated.

b. Guerrillas—If orders have been issued for the application of the regulation pertaining to the Special Criminal Law in War and the regulation pertaining to the Military Criminal Procedure in War (Army Service Regulation 3/13—Naval Service Regulation 132—Air Force Service Regulation 3/13), the relevant provisions of this regulation must be applied in cases of capture of guerrillas. If acquittal is decreed in pursuance of Article 3 (2) of the Criminal Law Regulation pertaining to War, the respective persons must be treated as prisoners of war.

As long as no orders have been issued concerning the application of these regulations, captured guerrillas must be kept in special custody and a decision of the Army High Command, Army General Staff, section 6, with regard to their subsequent treat-

ment, must be asked for by teletype with a brief report (to be submitted to the army command direct and through the official channels).

c. Compulsory measures—Compulsory measures, especially by police force for the local restitution of peace and order and for the security of the troops, can be arranged for by troop commanders with the rank of at least a commander of a regiment or an independent commander of a battalion; report to be sent to the superior office, also in places where no “combat area” is ordered.

The measures are to be cancelled as soon as the cause is removed. If necessary, they must be carried on by the succeeding troops.

The German civilian authorities already in action must be made to participate; those arriving later, are to be notified of the measures adopted.

In cases of imminent danger, every commander has the duty to adopt all necessary measures.

5. *Treatment of persons fit for military service in enemy countries*—*a.* Persons fit for military service of Polish and Jewish nationality between 17 and 45 years of age are to be interned immediately and to be treated as prisoners of war (but separated from these). Where required for the maintenance or starting of essential industrial or supply enterprises, they are allowed to remain in their homes and working places under relevant security measures (guarding, seizure of hostages, obligatory daily reporting, etc.).

b. Persons fit for military service of German nationality remain free, they shall be assigned as far as possible for the organization of administration and economy.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2731
PROSECUTION EXHIBIT 1383

LETTER FROM HIGH COMMAND OF THE NAVY TO THE GERMAN
FOREIGN OFFICE, 25 JULY 1939, CONCERNING PLANNED OPERA-
TIONS OF THE NAVY IN "CASE WHITE", SIGNED BY SCHNIEWIND

[Stamp] Top Secret

High Command of the Navy
Diary No. 1/Naval War Staff/Op 107/39
Top Secret Matter for Chiefs

[Stamp]
Matter for Chiefs!
Through officer only!

[Stamp] Control Copy No. 5
[Illegible initials] 4 August
C
31

[Stamp]

Preparation Staff Naval Group Command West

Received 31 July 1939

Diary No.: Top Secret 16/39 A 2 [Illegible initials] 3 August
Matter for Chiefs

Enclosure:

[Illegible initials] VI/31 July

Berlin, 25 July 1939

[Illegible initials] 31 July

To

The Foreign Office

Attention: Councillor of Legation

v.d. Heyden Rynsch or the acting
deputy

— Control No. 1

For information to:

OKW

— Control No. 2

Reich Minister of Aviation and CinC

Air Force

— Control Nos. 3, 4

Naval Group Command West

— Control No. 5

Naval Group Command East

— Control No. 6

Subject: "Case White"

Reference: Conferences at the Foreign Office on 19 and 21 July
1939

[Handwritten] Instruction 2 August 1939 to the files SW Chief -3 C AI
[Illegible initials] 2 August, 3 August

I. In case of a possible military conflict with Poland, Naval War Staff planned, on order of the Fuehrer to paralyze the Polish maritime trade, to block the sea routes leading to the Polish seaports, in particular Gdynia, but to give the neutral vessels, lying in Polish ports a time limit to put to sea which will be published at the start of the military operations.

II. The following measures are planned for carrying out these tasks:

1. From Y-hour on, Polish merchantmen, when encountered outside neutral waters, are to be stopped. If a vessel does not stop upon the usual request, a sharp shot is to be fired over and across the ship or in front of her bow. In case the vessel should still not

stop or puts up resistance, it will be forced to stop. The ship will then be brought to the nearest German port. If it is not possible to bring in the ship on account of unseaworthiness or for urgent military reasons, she can be sunk, after the crew and the passenger have been brought to safety; the cargo should also be recovered, if possible.

2. Merchantmen, no matter under which flag, sailing under the escort of Polish warships, can be captured, attacked or sunk. When encountering a convoy, it should be endeavored to put the Polish warships out of action in order to capture the merchantmen.

3. Neutral merchantmen can leave the ports of Poland and Danzig unmolested within 10 hours after Y-hour, and the Bay of Danzig within 16 hours after Y-hour by the prescribed route. Should a neutral ship deviate from this course, she can be forced to stick to this course or can be brought to a German port after previously having been warned (sharp shot over and across the ship or in front of the bow).

Neutral merchantmen, approaching the blockade belt from the outside are to be requested to turn back. If they do not obey this order, they can either be forced to turn back, or can be treated like a Polish vessel according to paragraph 1. A procedure against neutral commercial navigation outside of the Bay of Danzig is not intended for the present.

[Marginal note, handwritten] The High Command of the Navy has filed applications concerning Polish steamers in other German ports. General decision, also for the North Sea ports must be awaited first.

4. Neutral merchantmen lying in the ports of Pillau, Koenigsberg and Elbing at Y-hour, will be retained in these ports by local measures until the situation is clarified.

* * * * *

III. In consideration of the fact that it will probably be expedient not to make the existence of a state of war formally appear, the following formulation—in agreement with the Foreign Office—is planned for the declaration which is to announce to neutral ships the blockade and the use of mines in front of Polish ports, at Y-hour, and which also is to set the time limit to put to sea for neutral ships lying in the ports of Poland and Danzig:

“Warning to ships in regard to the ports and naval region of the Danzig Bay.

“In order to counter any hostile moves on the part of Polish naval forces, military operations in and in front of the Bay of Danzig must be expected as from the date of this announcement.

All warships and merchantmen are warned in their own interest not to enter this naval region."

* * * * *

IV. The High Command of the Navy will publish this announcement as a nautical warning (radio) and the "Nachrichten fuer Seefahrer" ["News for Seafarers"], and will also have it spread abroad by radio broadcasts in several languages (German, English, Swedish). The Foreign Office is requested to prepare the corresponding diplomatic steps with the interested governments for Y-day and to inform the High Command of the Navy of any measures planned there in connection with the proposed announcement.

V. The Foreign Office is requested furthermore to make sure that the German Consul General in Danzig receives instructions at Y-hour to give directions to German ships lying in Danzig and Neufahrwasser, not to put to sea until further notice.

Signed in draft: SCHNIEWIND

Certified:

[Signed] G. WEGNER
Commander

TRANSLATION OF DOCUMENT NOKW-2761
PROSECUTION EXHIBIT 1385

DIRECTIVE FROM COMMANDER IN CHIEF OF THE NAVY TO NAVAL
COMMANDER, 5 AUGUST 1939, CONCERNING NAVAL MEASURES
IN CONNECTION WITH "CASE WHITE", SIGNED BY SCHNIEWIND

[Stamp] Top Secret

The Commander in Chief of the Navy
AI Op 129/39 Top Secret Matter for Chiefs

[Stamp]

Preparation Staff Naval Group Command West
Arrival: 8 August 1939
Order No. Secret
89 38/39 Matter for Chiefs

Berlin, 5 August 1938 [1939]

To Group West, Control No. 1
Group East, Control No. 2
Fleet, Control No. 3
Commander of
Pocket Battleships, Control No. 4
Commander of
Submarines, Control No. 5

In the event of the two pocket battleships going to sea, the commander of pocket battleships hoists his flag on the pocket battleship "Admiral Scheer".

BY ORDER:

[Signed] SCHNIEWIND

TRANSLATION OF DOCUMENT 798-PS
PROSECUTION EXHIBIT 1101

FUEHRER'S SPEECH TO COMMANDERS IN CHIEF, 22 AUGUST 1939
[Handwritten] 11 C I 10a

The Fuehrer's speech to the Commanders in Chief on
22 August 1939

I have called you together to give you a picture of the political situation, in order that you may have insight into the individual elements on which I have based my decision to act, and in order to strengthen your confidence.

After this we will discuss military details.

It was clear to me that a conflict with Poland had to come sooner or later. I had already made this decision in spring, but I thought that I would first turn against the West in a few years, and only afterward against the East. But the sequence cannot be fixed. One cannot close one's eyes before a threatening situation. I wanted to establish an acceptable relationship with Poland in order to fight first against the West. But this plan, which was agreeable to me, could not be executed since essential points have changed. It became clear to me that Poland would attack us in case of a conflict with the West. Poland wants access to the sea. The further development became obvious after the occupation of the Memel region, and it became clear to me that under the circumstances a conflict with Poland could arise at an inopportune moment. I enumerate as reasons for this reflection:

First of all two personal conditions—

My own personality and that of Mussolini.

Essentially it depends on me, my existence, because of my political capabilities. Furthermore, the fact that probably no one will ever again have the confidence of the whole German people as I have. There will probably never again be a man in the future with more authority than I have. My existence is, therefore, a factor of great value. But I can be eliminated at any time by a criminal or an idiot.

The second personal factor is the Duce. His existence is also decisive. If something happens to him, Italy's loyalty to the alliance will no longer be certain. The basic attitude of the Italian

court is against the Duce. Above all, the court sees in the expansion of the empire a burden. The Duce is the man with the strongest nerves in Italy.

The third factor favorable for us is France. We can ask only benevolent neutrality from Spain. But this depends on Franco's personality. He guarantees a certain uniformity and steadiness of the present system in Spain. We must take into account the fact that Spain does not as yet have a Fascist party of our internal unity.

On the other side, a negative picture as far as decisive personalities are concerned. There is no outstanding personality in England or France.

For us it is easy to make decisions. We have nothing to lose; we can only gain. Our economic situation is such that, because of our restrictions, we cannot hold out more than a few years. Goering can confirm this. We have no other choice, we must act. Our opponents risk much and can gain only a little. England's stake in a war is unimaginably great. Our enemies have men who are below average. No personalities. No masters. No men of action.

Besides the personal factor, the political situation is favorable for us; in the Mediterranean, rivalry among Italy, France, and England; in the Orient, tension which alarms the Mohammedan world.

The English Empire did not emerge from the last war strengthened. From a maritime point of view, nothing was achieved. Conflict between England and Ireland. The South African Union became more independent. Concessions had to be made to India. England is in great danger. Unhealthy industries. A British statesman can look into the future only with concern.

France's position has also deteriorated particularly in the Mediterranean.

Further favorable factors for us are these.

Since Albania, there is the balance of power in the Balkans. Yugoslavia carries the germ of collapse because of her internal situation.

Rumania did not grow stronger. She is liable to attack and is vulnerable. She is threatened by Hungary and Bulgaria. Since Kemal's death, Turkey has been ruled by small minds, unsteady, weak men.

All these fortunate circumstances will not longer prevail in 2 to 3 years. No one knows how long I shall live. Therefore conflict better now.

The creation of greater Germany was a great achievement politically, but militarily it was questionable, since it was achieved through a bluff of the political leaders. It is necessary to test the

military. If at all possible, not by general settlement, but by solving individual tasks.

The relation to Poland has become unbearable. My Polish policy hitherto was in contrast to the ideas of the people. My propositions to Poland (Danzig Corridor) were disturbed by England's intervention. Poland changed her tone towards us. The initiative cannot be allowed to pass to the others. This moment is more favorable than in 2 to 3 years. An attempt on my life or Mussolini's could change the situation to our disadvantage. One cannot eternally stand opposite one another with cocked rifle. A suggested compromise would have demanded that we change our convictions and make agreeable gestures. They talked to us again in the language of Versailles. There was danger of losing prestige. Now the probability is still great that the West will not interfere. We must accept a risk as much as a military leader. We are facing the alternative to strike or to be destroyed with certainty sooner or later.

Reference to previous risks.

I would have been stoned if I had not carried my point. The most dangerous step was the invasion of the neutral zone. Only a week before, I got a warning through France. I have always accepted a great risk in the conviction that it may succeed.

Now it is also a great risk. Iron nerves, iron resolution.

The following special reasons strengthen my idea. England and France are obligated, neither is in a position for it. There is no actual rearmament in England, just propaganda. It has done much damage that many Germans who were against the solution of the Czech question said and wrote to Englishmen afterwards: The Fuehrer carried his point because you lost your nerve, because you capitulated too soon. This explains the present propaganda war. The English speak of a war of nerves. It is one element of this war of nerves to present the increase of armament. But how is British rearmament in actual fact? The construction program of the navy for 1938 has not yet been filled. Only mobilization of the reserve fleet. Purchase of fishing steamers. Considerable strengthening of the navy, not before 1941 or 1942.

Little has been done on land. England will be able to send a maximum of 3 divisions to the continent. A little has been done for the air force, but it is only a beginning. The anti-aircraft defense is in its initial stages. At the moment England has only 150 anti-aircraft guns. The new anti-aircraft gun has been ordered. It will take a long time until enough have been produced. Anti-aircraft range finders are lacking. England is still vulnerable from the air. This can change in 2 to 3 years. At the moment the English Air Force has only 130,000 men, France 72,000 men, Poland

15,000 men. England does not want the conflict to break out for 2 or 3 years.

The following is characteristic for England. Poland wanted a loan from England for rearmament. England, however, only gave credit in order to make sure that Poland buys in England, although England cannot deliver. This means that England does not really want to support Poland. She does not risk 8 million pounds in Poland, although she put half a billion into China. England's position in the world is very precarious. She will not accept any risks.

France lacks men (decline of the birth rate). Little has been done for rearmament. The artillery is antiquated. France did not want to enter on this adventure. The West has only two possibilities to fight against us.

1. Blockade—It will not be effective because of our autarchy and because we have sources of aid in the East.

2. Attack from the West from the Maginot line—I consider this impossible.

Another possibility is the violation of Dutch, Belgian, and Swiss neutrality. I have no doubts that all these states as well as Scandinavia will defend their neutrality by all available means. England and France will not violate the neutrality of these countries. Actually England cannot help Poland. There remains an attack on Italy. A military attack is out of the question. No one is counting on a long war. If Herr von Brauchitsch had told me that I would need 4 years to conquer Poland I would have replied: "Then it cannot be done." It is nonsense to say that England wants to wage a long war.

We will hold our position in the West until we have conquered Poland. We must be conscious of our great production. It is much bigger than in 1914–1918.

The enemy had another hope, that Russia would become our enemy after the conquest of Poland. The enemy did not count on my great power of resolution. Our enemies are little worms. I saw them in Munich.

I was convinced that Stalin would never accept the English offer. Russia has no interest in maintaining Poland, and Stalin knows that it is the end of his regime no matter whether his soldiers come out of a war victorious or beaten. Litvinov's replacement was decisive. I brought about the change toward Russia gradually. In connection with the commercial treaty we got into political conversation. Proposal of a nonaggression pact. Then came a general proposal from Russia. Four days ago I took a special step, which brought it about that Russia answered yester-

day that she is ready to sign. The personal contact with Stalin is established. The day after tomorrow von Ribbentrop will conclude the treaty. Now Poland is in the position in which I wanted her.

We need not be afraid of a blockade. The East will supply us with grain, cattle, coal, lead, and zinc. It is a big aim, which demands great efforts. I am only afraid that at the last minute some swine will make a proposal for mediation.

The political aim is set farther. A beginning has been made for the destruction of England's hegemony. The way is open for the soldier, after I have made the political preparations.

Today's publication of the nonaggression pact with Russia hit like a shell. The consequences cannot be overlooked. Stalin also said that this course will be of benefit to both countries. The effect on Poland will be tremendous.

Goering answers with thanks to the Fuehrer and the assurance that the armed forces will do their duty.

TRANSLATION OF DOCUMENT 1014-PS
PROSECUTION EXHIBIT 1102

FUEHRER SPEECH (SECOND), 22 AUGUST 1939

Second Speech by the Fuehrer on 22 August 1939

It may also turn out differently regarding England and France. One cannot predict it with certainty. I figure on a trade barrier, not on blockade, and with severance of relations. Strongest determination on our side. Retreat before nothing. Everybody shall have to make a point of it that we were determined from the beginning to fight the Western Powers. Struggle for life or death. Germany has won every war as long as she was united. Iron, unflinching attitude of all superiors, greatest confidence, faith in victory, overcoming of the past by getting used to heaviest strain. A long period of peace would not do us any good. Therefore, it is necessary to expect everything. Manly bearing. It is not machines that fight each other, but men. We have the better quality of men. Mental factors are decisive. The opposite camp has weaker people. In 1918, the nation fell because the mental prerequisites were not sufficient. Frederick the Great secured final success only through his mental power.

Destruction of Poland in the foreground. The aim is elimination of living forces, not the arrival at a certain line. Even if war should break out in the West, the destruction of Poland shall be the primary objective. Quick decision because of the season.

I shall give a propaganda cause for starting the war—never mind whether it be plausible or not. The victor will not be asked,

later on, whether he told the truth or not. In starting and making a war, it is not the right which matters, but the victory.

Have no pity. Brutal attitude. Eighty million people shall get what is their right. Their existence has to be secured. The strongest has the right. Greatest severity.

Quick decision necessary. Unshakeable faith in the German soldier. A crisis may happen only if the nerves of the leaders give way.

First aim: advance to the Vistula and Narew Rivers. Our technical superiority will break the nerves of the Poles. Every newly created Polish force shall again be broken at once. Constant war of attrition.

New German frontier according to healthy principle. Possibly a protectorate as a buffer. Military operations shall not be influenced by these reflections. Complete destruction of Poland is the military aim. To be fast is the main thing. Pursuit until complete elimination.

Conviction that the German Armed Forces are up to the requirements. The start shall be ordered, probably by Saturday morning.

TRANSLATION OF DOCUMENT C-126 G*
PROSECUTION EXHIBIT 1099

DIRECTIVE NO. I FOR THE CONDUCT OF THE WAR,
31 AUGUST 1939, SIGNED BY HITLER

The Supreme Commander of the Armed Forces
OKW/Armed Forces Operations Office
No. 170/39, Top Secret, Matter for Chiefs L I

Berlin, 31 August 1939
8 copies—2d copy

[Stamp] Top Secret

[handwritten]

CinC Navy has been informed
[Illegible initial] 31 August

1240 hrs

[Initial] S [Schniewind] 31 August
[Illegible initial] 31 August

[Stamp]
Matter for Chiefs
Through Officer only

[Illegible initial] 31 August

* See Nazi Conspiracy and Aggression, op. cit. supra, vol. VI, pp. 932-938, for extract of Document C-126.

[Stamp]

CinC Navy

A I op 218/39

Received: 31 August 1939

Enclosures:

Directive No. 1 for the Conduct of War

1. After all *political possibilities have been exhausted* to eliminate by peaceful means a situation at the eastern frontier intolerable to Germany, I have decided on the *solution by force*.

2. The attack on Poland is to be executed according to the plans made for "Case White," adopting those changes in the army which have taken place following the meanwhile almost completed troop concentrations. Assignments and operational objective remain unchanged.

Day of attack: 1 September 1939

Time of attack: 0445 hrs.

The operations Gdynia-Danzig Bay and Dirschau Bridge will start at the same time.

3. In the *West* it is essential that England and France are unequivocally held responsible for opening the hostilities. Minor frontier violations are to be counteracted locally, for the time being.

[Handwritten] and Denmark

The neutrality of Holland, Belgium, Luxembourg, and Switzerland, which we guaranteed, is to be observed most scrupulously. Germany's western frontier will not be crossed *on land* at any place without my express authorization.

At sea the same applies to all acts of war or acts to be interpreted as such.

[Handwritten] Accordingly, the forces in the Atlantic Ocean are to remain at action stations.

For the time being, the defensive measures of the *air force* are to be absolutely limited to the defense against enemy air attacks at the Reich frontiers, whereby the frontiers of the neutral countries are to be respected, as long as possible, in repelling individual planes and small units. Only if the commitment of major French and British attack formations across neutral countries against the German territory causes an imminent threat to the western air defenses, is defensive action over this neutral territory also permitted.

The OKW must be informed immediately about any violation of the neutrality of third countries by the western enemy, which is especially important.

4. If England and France start hostilities against Germany, it will be the task of the branches of the armed forces operating in the West to ensure that such conditions prevail which are conducive to a victorious conclusion of the operations against Poland, at the same time economizing the available forces as much as possible. Within the scope of this task, the forces of the enemy and his war industries are to be incapacitated as much as possible. In every individual case I shall reserve to myself the right of ordering attacks. The *army* will hold the West Wall and will make preparations to prevent its encirclement in the north—by the Western Powers invading Belgian or Dutch territory. If French forces should enter Luxembourg, the frontier bridges may be blown up. The *navy* will conduct the war against merchant shipping with its main effort directed against England. To increase its effect, it can be expected that danger zones will be declared. The High Command of the Navy will report in what sea areas and to what extent danger zones are considered expedient. The text of a public announcement is to be prepared in cooperation with the Foreign Office, and is to be submitted to me for approval via the OKW.

The Baltic is to be secured against an enemy intrusion. The decision whether the entrances to the Baltic may be mined for this purpose will be made by the CinC Navy.

The main task of the air force will be to prevent the commitment of the French and British Air Forces against the German Army and the German living space. For the war against England, preparations are to be made for air force operations to disrupt the British sea-borne supplies, their armament industry, and troop transports to France. Favorable opportunities for an effective attack on concentrations of British naval units, especially on battleships and aircraft carriers, are to be exploited.

Attacks on London will await my decision. The attacks on the British homeland are to be prepared by considering that an incomplete success with partial forces is to be avoided by all means.

[Signed] ADOLF HITLER

Distribution:

High Command of the Army,	1st copy
High Command of the Navy,	2d copy
Reich Minister of Aviation and CinC Air Force,	3d copy

OKW:

Chief Armed Forces Operations Office,	4th copy
National Defense,	5th–8th copies

PARTIAL TRANSLATION OF DOCUMENT NOKW-2822
PROSECUTION EXHIBIT 1389

EXTRACTS FROM WAR DIARY OF I ARMY CORPS FOR AUGUST 1939

1 August:

Staff I Army Corps meets at 1000 hours in Insterburg, High School Forchestrasse. Days for activation: 1-3 August.

At the same time the following will be activated: as Corps Troops N.41 in Kgb. [Koenigsberg], Motorcycle Dispatch Rider Squad 421 in Gumbinnen, Field Police Troop 421 in Gumbinnen, topographical point 421 in Insterburg.

1530 hours: Report by Chief of General Staff 3d Army about staff conference.

2 August:

Celebrating the 25th anniversary of the outbreak of the war.

3 August:

1130 hours officers' conference with the Chief of Staff. Briefing on the activities of the various Staff Sections and report about the intentions until 27 August (maneuver by individual divisions under the supervision of the I Army Corps). Initial organization of the staff will be concluded on that day.

In general, it was concluded without difficulties. List showing assignments to the various positions: Enclosure . . .

Allowing the staff only 5 cars, 5 trucks, and 2 omnibuses is insufficient in view of the number of officers. Above all, cars with special cross country mobility and one horse squadron are additionally needed, as will be most probably urgently required in view of the bad road conditions in Poland.

* * * * *

5 August:

Commanding General and Chief of General Staff for a conference at 3d Army Hq. in Kgb. Commanding General reports to the CinC and first briefing on the tasks to be anticipated.

6 August:

Commanding General and Chief of General Staff for reconnaissance of the terrain.

19 August:

* * * * *

The Commanding General and Chief of Staff are ordered to Kgb. to 3d Army Hq. for a conference to receive a draft order "for the

moving of troops to advance action stations." It is announced that 25 August will be the initial Y-day.

* * * * *

20 August:

1000 hours: At the I Army Corps conference with the commanders of divisions, Ia's and the commander of the 501st Artillery Regiment about the tasks to be expected. Issuance of the Corps Order Ia op, No. 12/39 Top Secret of 19 August.

Increasing tension in the political field, Germany becomes offensive. Y-day and X[Y]-hour not yet ordered 25 August at the earliest.

* * * * *

23 August:

The expected announcing of Y-day—25 August does take place.

24 August:

General v. Kuechler arrives at the I Army Corps at 0930 hours and informs us of Y-day—26 August.

* * * * *

25 August:

At 2137 hours a telephone call is received ordering that hostilities are not to be started. Troops remain at their present stations ready for action. The order was transmitted by an unknown army officer. Therefore, the army was requested to confirm this order once again.

26 August:

By sending out numerous officers it was possible to stop the troops at the last moment. Even during the night and in the small hours of the morning, the troops who were poised for the attack were withdrawn from the frontier, and dispersed to the rear so that the enemy should not discover anything. In part, these movements were continued during the hours of dusk.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT 1796-PS*
PROSECUTION EXHIBIT 1078

NOTES FOR OKW WAR DIARY, 7 APRIL 1941, FOR PERIOD
MARCH 1939—SEPTEMBER 1939, CONCERNING ATTACK ON
POLAND

* For additional translation of this document see section D 2 b.

7 April 1941

[Stamp] Top Secret

Copy

Major Deyhle, GSC

3 copies—3d copy
Berlin, 18 October 1940
2 copies—2d copy

Notes for War Diary

1. End of March 1939:

The Fuehrer decides to make military preparations for the gradual, seemingly unavoidable conflict with *Poland* in such a manner that they can be executed in late summer 1939. Thereby the Fuehrer hopes only to have to wage war on one front ("Case White").

2. The following months:

Influence of the Fuehrer, especially:

a. Attack by the forces from East Prussia;—High Command of the Army will first of all deploy the forces from southwest part of East Prussia in order to eliminate the Corridor as soon as possible. The Fuehrer considers an attack further east more suitable in order to reach a decisive solution at the very beginning (causing the Vistula line to fall, thereby preventing the Poles from making a new stand behind the Vistula).

b. Forming of 14 divisions. Fourth wave to consist of reserve units.

c. All preparations to be camouflaged as defensive measures.
Basis for 1st and 2d—

a. Directive for "Case White", OKW National Defense of April 1939.

b. "Chronological table," for White, OKW National Defense of July 1939.

c. Correspondence OKW National Defense with sections of the armed forces.

d. Beginning of the War Diary National Defense.

3. *August 1939:*

In spite of the British guarantee to Poland, and thereby a war on 2 fronts becoming almost unavoidable, the Fuehrer decides to settle the account with Poland after having prevented encirclement by means of an agreement with Russia.

4. *September 1939:*

Polish campaign: Influence of the Fuehrer, especially:

a. "Great Pincers" (strongly motorized forces to attack the eastern part of East Prussia towards south behind Vistula, moreover motorized forces to push forward in plenty of time across lower Vistula towards East Prussia).

b. Capture of Warsaw. Must be carried out *before* the Russians reach the Vistula.

c. Reinforcement of the western front. Extension northwards to the Belgian-Dutch border, in order to incite the French-British Army to march into Holland and Belgium; in addition to this, also hasten the construction of the northern part of the West Wall.

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PARTIAL TRANSLATION OF DOCUMENT NOKW-3140
PROSECUTION EXHIBIT 1359

EXTRACTS FROM DIARY OF GENERAL HALDER, AUGUST 1939

Volume I

Fuehrer Conference at Obersalzberg

14 August 39

The factors involved

Political

Primary opponent—Poland

Britain (active), France

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Fuehrer is concerned lest Britain hamper showdown by last minute offer.

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Second prerequisite: Determination to fight all comers. Deployment in the West must be completed to last detail.

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The other nations must be given proof that there will be a shooting war under all circumstances. (Poland will be polished off in six or eight weeks). Even if Britain should step in.

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Summary: Consideration of the political situation—

Success, political or military, cannot be had without taking risks. Reviewing first the risks which he had to take in all his undertakings to date and which, to his mind, diminished progressively as he forged ahead, the Fuehrer strikes a balance of the possible international complications arising from a German attack on Poland.

Only Britain, apart from Poland, would appear on the scene as an antagonist, with France pulled in after her.

Britain, unlike in 1914, will not allow herself to blunder into a war that would drag out over years. He discounts the talk of a protracted war which Britain is said to want. No government would seek to promote a war which it knows would be protracted. Britain knows war and is well aware that she may lose a war and that even a victorious war would not repay its cost. That is the fate of wealthy countries. Britain is overburdened with responsibilities because of the vastness of her empire. She has no great leaders ("The men I met in Munich are not the kind that start a new World War.") Moreover, the other side is well aware that it is not a Germany of 1914 they would have to deal with (socialism, church). (Why should Britain fight? You do not let yourself get killed for an ally.)

Not even Britain has the money today to fight a World War, and there is nothing to be had on credit.

France is not directly interested in waging a war.

Russia has no intention of pulling Britain's chestnuts out of the fire, and will keep out of war. Stalin has to fear a lost war as much as he would a victorious army at home. Russian interests extend at most to the Baltic States.

Norway, Sweden, Denmark are neutral from innermost conviction. Deeply disturbed over Britain's wooing of Russia.

Switzerland, Belgium, Holland. Switzerland surely neutral, Holland the same. Belgium will endeavor to preserve neutrality. As a likely theater of war, she stands only to lose. Possibly at this time certain forces favor participation at the side of France, but they will be silenced once the guns begin to speak.

Therefore, Britain and France alone will have to shoulder the burden. Nor can the Balkan States be of any help to them.

Appraisal of military potential of opponent. Britain has not gained in naval strength over last year. On land, it will take months before stepped-up conscription can take effect in the form of serviceable fighting units. Progress has been scored in the air: bombers, fighters, improved ground organization. *Antiaircraft defenses* have not been materially improved—On the whole, everything is still in the developing stage, similar to ours in 1934.

France's potential is curtailed by her limited manpower. Colonial troops are tied down. Equipment not the best.

Fuehrer states that if he were in the shoes of a Franco-British statesman, he would not assume responsibility for a world conflict. 125 million are lined up against 80 million.

What military operations could France and Britain undertake? Drive against West Wall unlikely. A northward swing through Belgium and Holland precludes success by surprise. None of this would help the Poles. A blockade takes effect slowly and provokes unpleasant counter measures.

All these factors argue for the likelihood of Britain and France refraining from entering the war, particularly since they are under no compulsion. Pacts are not yet ratified.

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This supports the conviction that while Britain may put up a blustering front, even recall her ambassador, and in the end put an embargo on trade with Germany, she is sure not to resort to armed intervention in this conflict.

The prerequisite conditions are—

1. Success must be scored in Poland within a very short time. "Within a week or two, the world will have to recognize the fact that Poland is on the point of collapse. The operations as such may well continue past that date." (6 to 8 weeks.)
2. We must show determination to fight on all fronts.
3. Western deployment must be completed.

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17 August 39

Canaris informs: Hi[Himmler]—Hey[Heydrich] at Obersalzberg. 150 Polish uniforms with accessories (Dr. Trummler) Upper Silesia. [2751-PS, Pros. Ex. 1100.]

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS FRANZ HALDER*

DIRECT EXAMINATION

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DR. LATERNSEER (counsel for the defendant von Leeb): Now, the actual fighting was supposed to have started with an attack

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948, pp. 1817-1864; 1867-2155.

on the Gleiwitz radio station by internees who were supposed to have been dressed in Polish uniforms.* As Chief of the General Staff at that time, what do you know about this matter?

WITNESS HALDER: I only know that the reports from the troops—that is, the daily reports of the troops—did not report at all about the matter.

Q. If the matter actually had been carried out—I don't know whether it was or was not—and if it had been a matter of the Wehrmacht, would you, as General Staff Chief, have been informed about it? Could it have escaped your notice?

A. No. As commander in chief of the army concerned, it would have been reported if any other agency had issued an order of this kind. However, even today, I still don't know what the whole situation was.

Q. Who, then, was concerned with the entire planning of the campaign against Poland, and who was responsible for it?

A. The responsibility for the tactical and entire planning of the Polish campaign was with the agencies dealing with this in the OKW and in the OKH, and, from among the defendants, none of these men belonged to the operational expert departments at the time.

Q. What influence did the Commander in Chief of the Army have on the actual decision to wage war against Poland?

A. I don't know of any influence which he could exercise. I must restrict myself, however, to comment on the fact that in the last days, especially from 25 August onward, I myself could make no observations at all because the Commander in Chief of the Army alone made his reports to Hitler. However, with regard to the whole attitude, there was no question at all at that time but that he had the effect of a brake as much as he possibly could.

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DR. TORGOW (counsel for the defendant Hoth): General, do you recall from the period at the end of the Polish campaign, any kind of reaction of the American Attaché in Berlin?

WITNESS HALDER: Yes. As far as I remember, it is even more than an occasion which, as far as I recall, did not occur at the end, but during the Polish campaign for the first time. There was a spontaneous congratulation by the then Military Attaché of the

* An account of the "attack" upon the Gleiwitz station is contained in an affidavit by Alfred Helmut Naujocks, the SS-man who was commissioned by Heydrich to head this mission. (Document 2751-PS, Pros. Ex. 1100.) This affidavit is not reproduced here but appears in *Nazi Conspiracy and Aggression, op. cit. supra*, vol. V, pp. 390-392.

United States upon the success of German arms, made in the Attaché Division of the High Command of the Army, of the OKH. This incident, because it was welcomed with gratitude and constituted something unusual for that reason, it was a topic of a report made to me.

Q. Were these felicitations along the line of your explanations that the decision for the Polish campaign was a purely political issue decided by Hitler without consulting even his closest military advisors and asking for their advice?

A. We regarded these felicitations as a deliberate act of separating the political decision from which we had been debarred, from the military execution of such a political decision.

Q. And this separation was known to the American Military Attache?

A. Yes, it was known to him.

Q. Particularly he knew that it was Hitler alone who had decided upon a Polish campaign, upon the initiation of a Polish campaign?

A. He would have been a poor attache indeed if he had not known that.

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CROSS-EXAMINATION

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MR. MCHANEY: Now, Witness, as I remember, you testified that you knew nothing about this Gleiwitz—so-called Gleiwitz incident, that is, this planned fake attack on the Gleiwitz radio station by Germans dressed in Polish uniforms, is that correct?

A. I had heard nothing about that. By this I mean—please don't misunderstand me—I did hear that the German radio made some announcements about the incident. Any military agency, however, did not report concerning this incident to the OKH.

Q. Let me put to you the first volume of your diary—book 19. The entry for 17 August 1939.

A. Yes, 17 August.

Q. It is marked in pencil—red pencil?

A. Yes.

Q. Now, will you give us the sense of that entry?

A. The sense of this entry is that through confidential channels, namely, through Canaris, I learned that Himmler and Hey-

drich had met on the Obersalzberg and had received the commission from Hitler to procure 150 Polish uniforms with all necessary equipment and added to this is Upper Silesia. Obviously, the means for action in Upper Silesia—

DR. LATERNSEER: If Your Honor please, in one glance, I notice here that in the English document book something is being submitted to the Tribunal as an exhibit which is not contained in the German document book. It may well be correct in the way it is supplemented here, but after all, it must not be supplemented. A translation of a document must have no additions which are not contained in the document to be translated. I notice here, for instance, that in this line there is an abbreviation "Hi", and in the English document in parenthesis it says "mmler"—Himmler. Now, the next word "Hey", then the final letters "drich" are added to make up Heydrich. After all, that is not possible that the prosecution submits something to the Tribunal as a document which contains more than a translation of the actual German document. I believe that the Tribunal has heretofore noticed that every time that I come here and make a glance into an English document book I notice that there is something wrong in it, and I do contend that in this manner I am not able to arrange my defense case conscientiously.

PRESIDING JUDGE YOUNG: All right, Dr. Laternser, you have been told that you can make these corrections. This is the man on the stand that wrote that diary, and he is being asked what he said, and you at least ought to be willing to have the man that wrote it explain to the Tribunal what he meant when he put it in there, and that if you want to correct these translations, you may submit your translations, but you have that privilege, and you don't have to make a speech every time you make an objection. Submit your corrections of the translation and the Court will give them consideration. Go ahead.

MR. MCHANEY: Witness, do you happen to know whether the radio station Gleiwitz was located in Upper Silesia?

WITNESS HALDER: Yes, I know that.

Q. And were you not informed of the purpose for which Himmler and Heydrich were securing these 150 Polish uniforms from the OKW?

A. No.

Q. And Canaris just out of incidental conversation said to you, "Himmler and Heydrich, I want 150 Polish uniforms with accessories for Upper Silesia," he just said that to you and that is all that is known to you?

A. He told me about it because he was the person who had to procure them, and he had the suspicion that something was to be done with these uniforms which could be of interest to the army, and he warned me, he said, "Something is in the offing here".

Q. Well, you had a suspicion it might have been one of these fake border incidents, didn't you, Witness?

A. Yes, that is right.

Q. Well, Witness, you well knew as a matter of fact that Germany's leaders used any spurious and base excuse to give a propaganda reason for these wars, didn't you? For example, you knew that in the Case Green in Czechoslovakia it was suggested that the German Ambassador in Prague be murdered in order to lend the appearance that Czech terrorists had done it—you knew that, didn't you?

A. I learned that in Nuernberg from Jodl's diary.

* * * * *

Q. When did you first learn of the Fuehrer decision to attack Poland?

A. I beg your pardon. Could you repeat the question, please?
(The Court interpreter repeats the question.)

As far as I recollect, the first idea of that type was transmitted to the Commander in Chief of the Army, von Brauchitsch, in April 1939.

Q. Now, were you opposed to this projected attack on Poland?

A. I have stated earlier that we endeavored to prevent the execution of such an attack.

Q. And why, again, briefly, were you opposed?

A. For the same reasons for which we opposed war generally, because we were convinced that Germany needed peace and quiet, but not war.

Q. Well, were there also moral factors involved, in that, that is to say, a realization that the Fuehrer's intentions were aggressive?

A. The person of the Fuehrer represented at least a certain atmosphere of uncertainty, or to put it differently, created the atmosphere of danger, that he was conducting a different type of policy, and we tried to counteract that danger, and that's why we were opposed to war.

Q. Well, one reason you were opposed, to put it a little differently, is because you had some reason to believe that Hitler's intentions were aggressive?

A. Yes. We had to expect and anticipate that possibility.

Q. Now, you attended the meeting with the Fuehrer on 23 May 1939, did you not?

A. Yes.

Q. Do you remember that the defendants Warlimont and Schniewind were there?

A. With reference to Warlimont, I cannot remember that he was present, but I do remember that Schniewind was there.

Q. And do you recall being told by Hitler in this meeting that Poland would be attacked at the first suitable opportunity?

A. Yes. That was said.

Q. And do you also recall being told that Danzig was not the subject of the dispute at all, but that it was a question of expanding Germany's living space?

A. That was also said.

Q. Now, was this information—these intentions as expressed by the Fuehrer—passed on to the leading field commanders, that is, the army group and army commanders who were to participate in the Polish campaign?

A. No, this was not passed on at the time. It was not passed on beyond the circle of those who attended the conference.

Q. Why not?

A. Because that was a long range political expose, the unreliability of which was known to everybody and could be felt by everybody who knew Hitler. A military command agency will only pass on information which is regarded by it as a certain basis.

Q. You mean only military information is passed on by the military headquarters? Was that your answer? It didn't come through clearly.

A. Yes.

Q. Well, but, Witness, the burden of most of your testimony has been that the leading generals were opposed to the Czech attack and to the Polish attack, and having had such a clear expression from the Fuehrer of his aggressive intentions at that meeting of 23 May 1939, I'm at a loss to understand why you didn't inform the leading military officials of what the Fuehrer had said, in an effort to increase this military resistance you have told us about. That seems to me to have been a very logical thing for you to have done.

A. Conferences and discussions which were held by the Fuehrer were restricted to the circle in which he made his statements. In other cases, if that was not to be the case, he would order that information was to be passed on, which in this instance was not so.

Q. Well, in other words, you were bound by the Fuehrer order of secrecy?

A. Yes.

Q. But while you wouldn't disobey this Fuehrer order of secrecy, you would engage in clandestine resistance activities against the head of the State. Is that what you want the Court to understand?

A. Yes. I don't quite understand the question.

Q. I say, while you would not disobey the Fuehrer's secrecy order you would, at the same time, engage in clandestine resistance—military resistance—against the head of the State. Is that what you want the Tribunal to understand?

A. It is the same situation which prevailed in the previous year, 1938. The experiences of 1938 had proved that a very clearly defined order which was available in writing, to the effect that it was Hitler's irrevocable wish and will to attack Czechoslovakia, had, in actual fact, not been carried out, but that instead the military preparations had represented a military means of pressure in order to support his political aims. We expected the same to be the case with respect to the preparations for the attack against Poland, which had been ordered by Hitler.

* * * * *

Q. Now, had consideration been given to the possibility of an attack by England and France if Germany invaded Poland?

A. Does that question refer to the conference of 23 May?

Q. Well, generally speaking. Before the Polish campaign was launched, did the OKH and military leaders give consideration to the possibility of an attack in the West against Germany?

A. That was the bone of contention between Hitler and von Brauchitsch, the Commander in Chief of the Army.

Q. That is sufficient, Witness. Now the agreement, the mutual assistance pact between England and Poland was well known, was it not?

A. Yes.

Q. The task of shielding the West during the invasion of Poland was an initial part of the overall operation, was it not?

A. It wasn't an essential part of the operations. It was an independent protection of the German west in case that operations had to be waged in the East.

Q. Well, there had to be a certain amount of coordination between the defensive plans in the West and the offensive plans in the East; did there not?

A. There is the connection to the effect that at the moment when operations started in the East, the West had to be protected also. There was no other connection.

Q. To whom was assigned the task of protecting the West Wall?

A. That task was assigned to the later Field Marshal von Leeb.

Q. When?

A. I can no longer tell you the date of the issuance of the order.

Q. Approximately when?

A. I assume it was in the summer of 1939. I believe at that time his attention must have been drawn to the possibility of such a task, but really, much as I would like to, I can no longer recall that date.

Q. But he had to know at the minimum of the decision and approximate timing of the attack in the East; did he not?

A. He didn't have to know anything about the planning of the attack. All he would have to know is that the possibility of a military operation in the East existed and was being anticipated and that it was his duty in such a case to protect the West with a minimum of forces.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS,
CAPTAIN RUSSEL GRENFELL*

DIRECT EXAMINATION

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DR. MECKEL: You were an officer in the British Navy, weren't you?

WITNESS GRENFELL: Yes, I was.

Q. What was your last rank when you retired?

A. Commander.

Q. For how long did you serve in the British Navy?

* Complete testimony is recorded in mimeographed transcript, 28 May 1948, pp. 4976-4982.

A. I served for 31 years altogether with one break in the middle.

Q. Where did you serve during the First World War and after?

A. During the First World War I was at sea. After the First World War, I was at sea for 19 years. For 5 years I was in shore appointments; 2 of those years were in an administrative post, and 3 of those years I was at the Naval Staff College. While at the Naval Staff College it was part of my duty to lecture to students on the organization and duties of the Naval Staff at the Admiralty.

Q. What was your work after you retired?

A. After I retired I did a certain amount of writing for the press, and I published two books on naval warfare.

Q. Could you give us the titles of those two publications of yours?

A. The first was a book on naval strategy called the "Art of the Admiral". The second book was called, "Sea Power in the Next War."

Q. Where did you serve after the outbreak of the Second World War?

A. My main service was in the Admiralty from the latter part of 1940 to the end of 1942.

Q. Could you briefly describe your activities with the British Admiralty?

A. I was the planning officer for the director of the dockyards, with the duty of maintaining, among other things, a close liaison with the Planning Division of the Admiralty. In September of 1942 I was transferred to the Planning Division of the Admiralty itself.

Q. What was your activity in the planning division?

A. I was engaged in preparing the plan for the invasion of French North Africa.

Q. Your country was not at war with French North Africa at that time?

A. It was not.

Q. Could you describe from your own knowledge and experience the tasks of a naval staff both in war and peace with respect to plannings?

A. I would say that a part of those—

MR. NIEDERMAN: If the Court please, objection because of irrelevancy. I don't think that the question has anything to do with the subject matter before this Tribunal.

PRESIDING JUDGE YOUNG: Objection overruled.

A. I would say that a part of those tasks is to prepare plans both of an offensive and a defensive nature for any likely warlike contingency.

DR. MECKEL: If you use the term "offensive" do you also include planning for aggressive war in that term?

A. In the planning—

Q. Just a minute, I did not say planning for aggressive war, but aggressive planning.

A. I think that in the planning staff the terms "aggressive" and "offensive" are indistinguishable.

Q. What do you understand by the term, "aggression"?

A. Before I came to Nuernberg I looked up the definition of "aggression" in Webster's dictionary. May I have the permission of the Court to read out that definition?

PRESIDING JUDGE YOUNG: Yes, you may.

A. The definition as given there is as follows: "Aggression, a first or unprovoked attack of hostility; the first act of injury or first act leading to a war or a controversy; practice of encroachment, assault, as, for example, a war of aggression". I conclude from that definition in which all the emphasis is on action and the timing of that action that a plan cannot be either aggressive or nonaggressive since aggression cannot arise until after the plan is made and will presumably be determined by people other than those people who made the plan.

Q. Do you know of offensive plans being prepared by naval staffs during peace?

A. I am aware that the British Naval Staff prepared offensive plans both in 1914 and 1939 before the wars for the offensive action on the outbreak of war; to sweep the German mercantile marine off the seas and also to transport military expeditionary forces across the channel. I have also seen it stated, though I have not seen the originals, that there was printed in the American press about 3 months before the outbreak of war between Germany and the United States, the details of an American plan for transporting American Expeditionary Forces to fight Germany on the European continent.

Q. According to your knowledge and experience is it part of the

duties of such a planning staff to check whether a planned operation is in accordance with international law?

A. Yes, I think it's part of the duties of a naval staff to check a plan in that connection, but I would say only with a view to drawing the attention of their superiors, whether naval or political, to any aspects of the international law relating to that plan which those superiors might have overlooked.

Q. Do you know of any examples where military operations were ordered and executed in spite of the fact that military leaders had expressed serious misgivings previously?

A. Yes. The naval attack on the Dardanelles in 1915 was such an example. The first Sea Lord of the Admiralty being strongly if not violently opposed to that operation.

Q. Were these misgivings of a military or a political nature?

A. They were of a military nature.

Q. Would a military leader in your country be justified in refusing his cooperation in preparing and/or executing a plan for a military operation on account of his disagreement with the political objectives?

A. No, he would not be justified.

Q. In such circumstances, would you regard the military leader as in any way responsible—I beg your pardon, I will rephrase my question—I have no further questions.

CROSS-EXAMINATION

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MR. NIEDERMAN: I was interested in your definition of aggression. I take it you don't agree with the definition of the International Military Tribunal.

WITNESS GRENFELL: Can you tell me what the definition of the International Military Tribunal is?

Q. You haven't read the judgment of the IMT, the definition of aggression?

A. I am afraid not.

Q. Also, I take it you disagree with the judgment of that Tribunal on superior orders. Briefly I will tell you what it is—stating that an officer or a soldier who obeys a superior order, if it is a criminal order, is himself a criminal. You don't agree with that?

A. I most energetically do not agree. No.

Q. I have no further questions, if the Court please.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON LEEB*

DIRECT EXAMINATION

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DR. LATERNSEER (counsel for defendant von Leeb) : How did your participation work in the planning and preparation of the Polish campaign?

DEFENDANT VON LEEB: I did not participate in that at all. I was in retirement.

Q. Were you present during conferences at that time, conferences, I mean, in which the Polish campaign was discussed?

A. No, I was not. I was only informed of what every other German was informed also, namely, from the public information service, the radio. Furthermore, I don't even know whether I had a radio at that time.

Q. How then were you informed about the situation shortly before the outbreak of the Polish campaign?

A. As a complete surprise to me, I was called from Munich to Obersalzberg on 22 August.

Q. At that time you were still retired?

A. Yes. I was retired in Munich.

Q. What happened on the Obersalzberg?

A. There the well known and previously discussed speech of Hitler's was made.

Q. Would you please describe for us very briefly how that conference took its course?

A. It wasn't a conference. It was merely an announcement of a decision by the head of the State and the Supreme Commander of the Armed Forces to the generals. The conference took its course as such conferences generally did; on these occasions, Hitler arrived, went to his speaker's desk and announced his decision, after which he left.

Q. Was any opportunity afforded to anyone to make objections in Hitler's presence?

A. No.

Q. What kind of an impression did you gain from this conference?

* Complete testimony is recorded in mimeographed transcript, 19-22 April 1948, pp. 2277-2684; 7770-7771.

A. At the time I was under the impression that the situation was somewhat similar to the situation which prevailed before the invasion of the Sudetenland, and I was under the impression that there would be no war. This impression was based on the following reasons:

1. Hitler announced that in the near future an agreement with Russia would be concluded.

2. Hitler said, and now I quote verbatim: "I give you my 100 percent, or almost 100 percent assurance that France and England will not intervene in this war."

3. He said the negotiations with Poland would continue.

When the address was finished I was rather optimistic. That was wrong, as was revealed later on. I almost went to the Commander in Chief of the Army to ask him whether it was necessary at all for me to go to Frankfurt, where I was to take over the command of the western front, since after all England and France were not going to intervene and there would be no war. For some reasons which I no longer remember I did not do that, and because of the general turmoil probably I never did get to Brauchitsch.

Q. But war did result after all. What tasks did you have during the war against Poland?

A. I had to defend the western front of Germany.

Q. What army group was under your command for the fulfillment of this assignment?

A. Army Group C.

Q. Where was its headquarters?

A. In Frankfurt on the Main.

Q. What armies were under your command?

A. First of all the Fifth, the First, and the Seventh Armies were under my command. Quite soon, however, it was discovered that the frontal territory of the Fifth Army was too large to be conducted from one spot. Therefore, the Fifth Army was subsequently subdivided into Army Section [tactical unit] A and the Fifth Army; under my command then were the Fifth Army, the First, and the Seventh, and Army Section A.

Q. General, who was in charge of Army Section A?

A. That was under the command of the former Chief of the Army Command, General Freiherr von Hammerstein.

Q. And who was in charge of the First Army?

A. The later Field Marshal von Witzleben who was hanged later on.

Q. Did you in any way participate in the operational conduct of the Polish campaign?

A. No.

Q. Were troops of your army group committed against Poland?

A. No.

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CROSS-EXAMINATION

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MR. MCHANEY: When did you learn of the possibility of an attack on Poland?

DEFENDANT VON LEEB: On 22 August 1939, unless it had been published in the newspapers before that date, which I don't think.

Q. When were you told that you would command an army group in the West during the Polish campaign?

A. Yes.

Q. I say, when were you told that you would command an army group?

A. I knew that before.

Q. And can you give us the approximate date?

A. No.

Q. And were you told that you would command the army group in case of a war with Poland to protect the West?

A. No.

Q. What were you told?

A. I was only told that in the event of a war, I would be committed at the western front.

Q. And after being told of this, did you make any preparations for a holding action in the West?

A. No. I was in retirement. These preparations were made by the military agencies.

Q. Do you recall the peacetime designation of Army Group C or did it have one?

A. Oh, yes, that was Army Group Command 2 and in wartime it became Army Group C, and the commander of Army Group 2 in peacetime was General von Witzleben, and he then took over the First Army.

Q. The Army Group Command 2 was the peacetime designation of Army Group C?

A. That is right.

Q. And do you recall the peacetime designations of the 5th and 7th Armies?

A. No, I don't think there were any peacetime designations because there were only army group commands in peacetime. As far as I recall, at the outbreak of the war there were four or five army group commands, and since three army group commands were used during the war, out of the five which existed in peacetime, the other two, I imagine, became army commands. The other army commands were newly formed, as, for instance, the First Army which was commanded by General von Witzleben; but I don't know the details.

Q. Did you receive any information on the general plan of attack on the East?

A. No.

Q. Didn't you have to know the decision and the approximate timing of the attack on Poland in order to make some preparations for the holding action on the West Wall?

A. No.

Q. At the conference of 22 August 1938 [1939], didn't Hitler make very clear his decision to attack Poland?

A. No, on the contrary. The impression which I gained I discussed in detail the day before yesterday.

Q. Well, Witness, right now my question is not directed to the impression you gained. I understood that, but I am interested in knowing your recollection of what Hitler said and I would suggest to you that Hitler even expressed concern at this conference lest Britain make a last minute offer of compromise. Do you recall that?

A. No.

Q. Do you recall that he stated he had planned to turn first against the West and then against the East, but this proved impossible?

A. You say, we were first supposed to attack the West and then the East, is that what you are saying?

Q. Do you recall that Hitler stated at this conference that he, Hitler, had planned to turn first against the West and then against the East, but this proved to be impossible, hence he was now turning first against the East?

A. No.

Q. And you don't recall that he repeated that same intention at the conference of 23 November 1939?

A. No.

Q. Now, you have stated that you did not anticipate that England and France would participate in the Polish conflict, is that right?

A. I merely repeated what Hitler said and I quoted him verbatim, because I remembered it. Whether France and England would start the war and declare war or not, I had no basis to decide. I don't know, and I didn't know at the time.

Q. Well, quite aside from what England and France did, was there any question in your mind that there was going to be a war with Poland?

A. In my opinion, the situation was that a peaceful solution would have been possible.

Q. You mean, if Hitler got what he wanted, he wouldn't have a war?

A. If the Polish Corridor question would have been solved in a manner tolerable for us, then no war would have resulted.

Q. Don't you recall that Hitler made it clear at this meeting that this was no scrap over Danzig and the Corridor?

A. No.

Q. What was your attitude towards this attack on Poland. Did you regard that as a defensive measure?

A. No.

Q. Did you regard it then as aggressive?

A. Yes.

Q. Don't you recall at this meeting that Hitler stated that a basic prerequisite for the attack on Poland is that the build-up of the western front must be completed?

A. I can no longer remember whether he said that.

Q. Did you ever hear of any atrocities committed by the SS in Poland?

A. No, at least, not then.

Q. Immediately after the Polish campaign, you began making plans for the employment of Army Group C in the Western Campaign, did you not?

A. No, I didn't start making plans for the deployment of Army Group C, because Army Group C was already stationed on the western front at that time.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT SCHNIEWIND¹

DIRECT EXAMINATION

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DR. MECKEL (counsel for defendant Schniewind) : The prosecution has further submitted some documents as evidence which deal with the occupation of the city of Memel. The first document I will put to the witness is NOKW-2883, Prosecution Exhibit 1372.² * * * What is this about?

DEFENDANT SCHNIEWIND: On the strength of this general directive of the Fuehrer and Supreme Commander of the Armed Forces, the navy had to be prepared for the realization of the directives which had been issued. The document which I have in front of me is the directive by the Commander in Chief of the Navy, elaborated by Section 1 of the Naval War Staff, dated 23 November 1938, directed to the Group East or Station East and to the naval forces which were involved, concerning what measures were to be taken by them in case of the occupation of the Memel territory.

By way of introduction it is stated, and I quote: "The political situation, especially an armed conflict between Poland and Lithuania, may make it necessary that the German Armed Forces occupy the Memel land."

Q. Did you regard this intention of occupying the Memel land as an aggressive act?

A. An intention is not an action. So possibly it might have been regarded as an appropriate preparation, but it did not present itself to us as a preparatory act for an attack because, the political conditions under which it might become reality,—sketched here as a contingency,—could not be foreseen.

Q. A contingency is intimated in the first sentence of this directive, isn't it, Admiral?

A. Yes, but nonetheless in case of a conflict between Poland and Lithuania you could consider such a possibility of German intervention. We, ourselves, witnessed the taking away of the Lithu-

¹ Complete testimony is recorded in mimeographed transcript, 25-27 May 1948, pp. 4791-4957.

² Document reproduced in this section.

anian city of Vilna by Poland, and we had the feeling that with regard to further claims by Poland one had to be very cautious.

It is to be added that the Memel territory in 1923, contrary to law, had been occupied by Lithuania before the final fate of the Memel territory had been decided. At that time Lithuania occupied this territory in the presence of French occupation troops and without any intervention by the French and thus created a *fait accompli*. It was quite intelligible that regarding this appraisal of the position, the legitimate taking care of German interests and a protection of the population there might very well be considered.

* * * * *

Q. Document NOKW-2657¹ deals with the case of Danzig. It is Prosecution Exhibit 1379. What is this about?

A. This is merely the new working out of the orders which had so far been issued for the occupation of the Danzig territory, because up to now the orders for the occupation of the Memel territory and the occupation of Danzig had been intertwined militarily. Now that the Memel action was no longer necessary, the orders regarding Danzig had to be elaborated again.

Q. Is any kind of committal by way of date contained as to the realization of these intentions?

A. No. This directive does not commit itself as to the date. It is quite vague as the former directive and the directive by Hitler himself.

Q. Now, in this directive Case White is mentioned, and this directive for Case White had been received a few days before by the High Command of the Navy. I will put this document to you. It is C-120, Prosecution Exhibit 1079.² What is this directive about?

A. This is the directive issued by the High Command of the Armed Forces in April 1939, for the Uniform Preparation for War by the Armed Forces for 1939 and 1940. Part 2 of this directive concerns Case White, that is, war against Poland.

Q. What does this directive say about Case White?

A. By way of introduction the section Case White contains the following note: "The present attitude of Poland requires, in addition to the plan 'Border Security East,' the initiation of military preparations to remove, if necessary, any threat from this direction for all time."

¹ Ibid.

² Ibid.

Q. Does this directive reveal the intention that German aggressive actions were to take place against Poland?

A. No. At that time I did not discern such an intention. Neither do I discern it today in this document, especially since the next section makes some more detailed statements and I am now quoting: "German relations with Poland continue to be based on the principle of avoiding friction. Should Poland, however, change her policy toward Germany, based up to now on the same principles as our own, and adopt a threatening attitude towards Germany, a final settlement might become necessary, notwithstanding the pact in effect with Poland."

From this sentence, you cannot, in my view, infer an intention to wage aggressive war. On the contrary, it is rather to be inferred that such a development would be undesirable.

DR. MECKEL: We had stopped while discussing Case White within the scope of Document C-120, Prosecution Exhibit 1079, and I would like to ask you, Admiral, to look at that document once again at the first page. What is the heading of the document?

DEFENDANT SCHNIEWIND: The heading reads, "Directive for Uniform Preparation for War by the Armed Forces for 1939-40."

Q. If Your Honor please, I would like to point out that these words "1939-40" are missing in the English text. Is that the first and only issuance of such directives, Admiral?

A. No, such directives as I stated previously in a different connection were issued at regular intervals, even before the period of time when Hitler was Supreme Commander of the German Armed Forces.

* * * * *

Q. The possibility of a conflict with Poland which is mentioned in this Case White, is that put for the first time to the armed forces as a task for mental preparation?

A. In this form, as a directive of the Supreme Commander, I believe it was the first time; but I said earlier in a different connection that in the various branches of the armed forces, at least in the navy one was always prepared for the contingencies of such conflicts. I recall to your mind the "Study East."

Q. What measures were set for the navy in these former studies for the event of a war against Poland,—if you can tell us that in brief outline?

A. The navy would have been mainly concerned with barricading the Danzig Bay. That meant also that the Polish harbor of

Gdynia was cut off. In spite of this, one had to be prepared for the possibility Polish submarines and destroyers would escape from the sealed off Danzig Bay. Consequently the additional tasks of the navy in such an event would be the securing of the sea traffic and commercial traffic in the Baltic Sea to East Prussia. Parallel to this ran security measures for the Baltic Sea entrances and supervisory measures in the North Sea.

Q. The measures in the event of Case White as far as they concerned the navy, did they exceed these earlier plans?

A. Not in a basic respect, but in view of the increase of the armed forces in the time between the origin of "Study East" and the year 1939, the measures which had been provided for a long time ago had of course to be completed and improved.

Q. Thank you, that suffices. Earlier on you mentioned that the tension between Poland and Germany had forced you to make such preparatory considerations in earlier years also. After 1933, had not the situation become less tense, for instance, through the German-Polish Nonaggression Pact of 1934?

A. In 1933, I was on a cruise abroad and I myself was involved in the last after-effects of a strong tension. In answer to my alarming radio message from the cruiser "Koeln," on which I was making the cruise, I received the answer from Germany that on the basis of a Reichstag speech of Hitler one could count on a relaxation of the tension with Poland.

* * * * *

Q. Did the relations become more tense again afterwards?

A. I believe that was very soon after Pilsudski died—I was not in Berlin at that initial stage of this development—a serious deterioration of the relations between Germany and Poland developed. This found its expression in difficulties at the border; in the fact that the German minority treaty was not adhered to by the Poles; expropriations occurred; and the whole was accomplished by utterances in the Polish press and by demonstrations by Polish military formations.

Q. Through what channel did you hear about these events and incidents,—about the increasing tensions of the situation.

A. What I described here is of course the picture which I gleaned at the time. Unfortunately outside of Berlin, as well as to a large extent inside of Berlin, one had to rely on what the German press and the German radio announced. In comparatively few cases only did we receive more official information. That situation changed when I came to the Naval War Staff where at

regular intervals, I believe every one or two weeks, the OKW gave us summarizing reports about the situation abroad. However, these reports and surveys, also as far as their contents and the facts were concerned, hardly exceeded what was reported in the press. They gained a certain value because of the fact that they were of an official character and that here and there reports of German representatives abroad, such as consuls, legation personnel, ambassadors, etc., were also attached to them.

Q. In March and April 1939, what did you think of the relations between Germany and Poland, that is at a time before you saw the directive for Case White? What did you think at that time?

A. At that time there was no doubt that according to the picture which we had, the situation between Germany and Poland, and vice versa, was quite tense. In the press one could read articles which were rather hostile to Germany with headlines such as, "East Prussia, Upper Silesia are purely Polish territories;" "The Vistula estuary belongs to the living space of the Polish Nation," etc. Even if you did not take these matters too seriously, you could see that a special tenor was given to these announcements through the fact that in the middle or at the end of March 1939, there were levies of troops in Poland and partial mobilization. News of these, of course, was spread in Germany.

* * * * *

Q. Thank you. During that time Hitler made his famous speech in the Reich Chancellery on 23 May 1939. How did it happen that you were present during that address?

A. I don't know the reason why. The Chief of Staff of the Commander in Chief informed me that I was to accompany the Commander in Chief to attend a conference with Hitler.

Q. Concerning this conference, the witness General Halder, who also attended the conference, has already testified. The prosecution has submitted a memorandum of the Fuehrer's adjutant at the time, Lt. Col. Schmudt. This is Document L-79, Prosecution Exhibit 1083.* Are the contents of this memorandum consistent with your impression of the conference?

A. Most certainly not.

Q. The prosecution asserts, on the basis of this document, that Hitler had very clearly shown the developments of his aggressive plans. Can you very briefly tell us about the contents and tendency of this address of Hitler's?

* Ibid.

A. This address of Hitler's was the first of this type which I attended. I went to this conference with comparatively great expectations, returned however, somewhat disappointed, and somewhat confused. An abundance of ideas was poured over us at the time, but any leading motive, any tendency for a decision, any decision was not expressed. In the course of the speech, which lasted at least two hours, Hitler first of all elaborated on inner-political questions, successes which he had so far achieved; he stated that one had to be aware of the fact that a further prospering and strengthening of Germany might lead to difficulties. With this idea he turned to the foreign political sphere and gave a survey of the borders. His tendency was to speak about neighbors who were not always friendly disposed towards Germany. He mentioned Poland for instance, that most certainly was hostile to Germany; he stated that Russia's attitude was somewhat of an unknown quantity. He said that the Scandinavian countries wanted to guard their neutrality; England and France would regard a further strengthening of Germany with none too friendly eyes; Belgium and Holland would perhaps endeavor in the event of a conflict to remain neutral, to serve both sides if possible. However, these last mentioned countries would perhaps not be in a position to withstand pressure of the western countries. These, in outline, are the ideas which I gathered from Hitler's speech, and, the theme which became apparent. At the end of his statements was a warning that on the basis of the situation which existed at the moment, one had to be careful and guard one's self interests. All questions of a military-political nature had to be carefully examined. In order to do this, he intended to create a study staff which was to work under his personal supervision and leadership.

Q. After that speech did you gain the impression that a warlike conflict was intended or was imminent?

A. No. Neither the one nor the other. However, it is possible that I left that conference with a certain feeling of uncertainty.

Q. At any rate, it is your opinion that the so-called Schmundt minutes of the conferences do not relate the contents of the conference correctly?

A. Yes, that is my opinion.

Q. Now, I will have the so-called Schmundt minutes put to you. Document L-79, Prosecution Exhibit 1083; the following sentence is contained therein and I quote: "Danzig is not the subject of the dispute at all. It is a question of expanding our living space in the East and of securing our food supplies, of the settlement of

the Baltic problem". Doesn't that sentence tell us that Danzig was only a pretext?

A. If you read it out of the context as you did now, one might infer this after having witnessed the development of events, but I read the sentence before the one that you read. There it says: "Poland will always be on the side of our adversaries; in spite of treaties of friendship, Poland has always had the secret intention of exploiting every opportunity to do us harm." Such a sentence and such a meaning was quite within the scope of Hitler's statements; and if you go on to say now that that was Poland's attitude, namely, an adverse attitude, then if you continue this trend of ideas, you may arrive at the result that Danzig is not the final objective; that is, if conflicts arise, further developments will occur. This idea, by the way, is also expressed in the Fuehrer directive about Case White, where a similar deduction is made and from where you can clearly infer this trend of ideas.

Q. I will have this document about Case White put to you. It's C-120, Prosecution Exhibit 1079. Please read the part that you are interested in.

* * * * *

A. It says in the second paragraph, under the heading Case White, "Should Poland, however, change her policy toward Germany, based up to now on the same principles as our own, and adopt a threatening attitude towards Germany, a final settlement might become necessary, notwithstanding the pact in effect with Poland." It goes on, and I quote: "The aim then will be to destroy the Polish military strength and create a situation in the East which satisfies the requirements of national defense". Here then, you have the logical connection between the final conclusion and the premise made very clear.

Q. It has further been stated, also on the basis of the Schmundt minutes of the conference, and I quote: "There is, therefore, no question of sparing Poland, and we are left with the decision to attack Poland at the first suitable opportunity." Was that sentence stated in this manner as far as you remember?

A. This idea as far as I remember was not expressed—not even in substance, because otherwise I am quite sure that I would have left this conference not feeling uncertain, as I stated I did, but I would have left it with the opinion that a war would break out very soon. That, however, was not the case. Even Admiral Raeder did not hold this point of view.

Q. How do you know that?

A. The next day or the day after, I saw Raeder because of this conference which had taken place at Hitler's in order to learn his impression of Hitler's address.

Q. What did Raeder tell you on that occasion?

A. He said that he was completely without fear or anxiety; he had personally talked to Hitler; this he had done particularly, in order to learn whether in view of the developments or in view of Hitler's judgment of the situation any measures on the part of the navy were to be prepared. Hitler calmed him down and said that he had complete control over the situation; any measures on the part of the navy with reference to the building up of the fleet were not to be taken. I have to add here that Raeder had asked him whether the construction of submarines, for instance, was to be referred to the background in order to build larger vessels. Hitler had clearly answered that question to the effect that the building up of the fleet was to proceed according to plan, which meant that vessels of all types, as had been provided originally in the plan, were to be built, and that no serious warlike conflicts were to be expected in the near future.

Q. Admiral, I believe we have to make a correction here. Will you repeat that, please? What was Hitler's suggestion? What type of vessels was to be preferred? You said that the building of submarines was to be referred to the background in order to build larger ships, is that right?

A. I am afraid I used the wrong term then. Raeder's inquiry of Hitler was whether by any chance the building of submarines, which could be constructed in a short time, was to be particularly sponsored and furthered at the expense of the building of surface fighting vessels.

Q. And to that question which Raeder put, Hitler answered to the effect that the original construction plan was to proceed?

A. Yes. That is right.

Q. From the remarks made by Admiral Raeder, could you clearly gather that he did not expect a warlike conflict to result from these tensions?

A. Yes, that was the impression under which I left Raeder. It had been the purpose of my personal discussions with Raeder to determine whether any steps were to be taken on the part of my office or of the Naval War Staff by virtue of Hitler's speech. Moreover, Admiral Raeder expressed his opinion repeatedly on later occasions that a peaceful development was to be expected. I remember, for instance, that in summer 1939, on the occasion of a submarine maneuver he told the leader of the submarines and the

submarine officers once again that the maneuvers in the near future would proceed undisturbed and were to be continued according to schedule, because no frictions were expected. Similar remarks were made on other occasions.

* * * * *

Q. Can you tell us very briefly whether Poland's attitude towards Germany changed in any way in the subsequent period, that is, after May 1939?

A. According to what I recollect today about the developments of those days, it is my opinion that during the time from April 1939 onward the tensions increased constantly. At that time the reasons given for this (which were also expressed in the German press) were that the treaty of friendship which was under preparation—a treaty of friendship between England and Poland—might perhaps be the cause of the more tense situation between Germany and Poland. At any rate, the situation was, that during the months between May, July and August 1939, there was an abundance of news and information about excesses committed towards the German frontier population—reports about dismissals of employees and workers. Germans streamed across the Polish frontier, and the serious aspect was that our representatives in Poland also reported that the circles hostile to Germany—the circles that wanted to annex territories—mainly represented by the military formations and Sokols, gained increasing influence on the foreign policy of Poland.

Q. Thank you. The next document I will pass to you is C-126 F, Prosecution Exhibit 1089.* In this communication it is mentioned that a call-up of reserve personnel is intended which exceeds the usual scope. In addition, it is stated that hospitals in the border areas are to be vacated and made available. And, thirdly, there is some mention of the transfer of an SS artillery regiment to East Prussia. Do not these measures indicate that a war is intended?

A. These preparatory measures doubtlessly do not indicate the intention of a war. However, they do show that preparatory or precautionary measures were to be increased. About point 1, I might add that the call-up of civilians and reserve personnel had occurred in Poland three months before this time.

Q. I should now like to refer you to paragraph 4 of the communication.

A. Yes, I take particular reference to paragraph 4 of this communication, where it is stated that the Fuehrer and Supreme Com-

* Ibid.

mander would only make his decision at the beginning of August about the trips of the training vessels of the navy.

From this it follows that at the time of that communication—that was at the end of June—a definite decision about a war had certainly not been taken yet. Otherwise, the decision about the trips of the training vessels of the navy would not have been deferred until August, but they could have been cancelled already in June.

* * * * *

Q. We were dealing with the orders in Case White, and I will now put to you as the next document, Document C-126 D, Prosecution Exhibit 1093. This document contains a timetable. Wasn't such a timetable also an indication of the imminence of an operation?—The document is C-126.

A. No, in no way at all. When one of the services worked out orders for a possible operation, then the final item after these preliminary considerations is such a timetable. If all the preliminary work has arrived at this stage, then the orders which have been elaborated can be put away in a drawer; they can be taken from this desk drawer when a decision has been made that the orders have to be carried out. Such a timetable does not commit itself to a specified date, but starting from an unspecified X-day—such a day was called D-day during the invasion of Normandy by the Allied Forces—the last preparations which have yet to be initiated are specified for the day preceding this X-day or D-day, if and when the order for the operation is given. That is the keystone for such an order covering a contingency.

Q. The next document, NOKW-2882, Prosecution Exhibit 1382,* is a directive of the High Command of the Navy concerning a modification of Case White. This communication is signed by you. What was the reason for this communication?

A. When, on the strength of the orders issued for Case White, the navy had to consider how, organizationally, they had to arrange their measures in case of war with Poland, they first of all prepared themselves for that position which seemed to them most favorable. That is, in this case, assuming that on a certain X-day hostilities will break out, then the navy will endeavor during the hours of darkness, in the early morning of that day, to make the first measures, that is, to sow mines before the port of Gdynia. The High Command of the Army or the OKW had learned of these ideas of the navy. They had certain anxieties in those quarters that by the measures of the navy, operational designs of the army

* Ibid.

might possibly be disturbed, that is, army operations which were only to be started at daybreak. Thereupon, the navy had to relinquish their designs, and this order which I have before me issues the appropriate instructions for this.

Q. Does the wording not clearly reveal that the opening of hostilities was to be started by Germany, that is, the war would be started by the Germans, and one would not wait for the outbreak of hostilities on the part of Poland?

A. That cannot be taken from the document without some qualifications. These military orders which were prepared for a possible case of war only represent the most favorable solution of military operations, which we aimed at. Whether this could be realized in that manner depended ultimately on the military and political developments. For the rest, of course, things were like this: the first step across the boundary or the first shot fired by anyone in a war is by no means the proper criterion for determining as to who started the war, and as to who is the guilty party. Perhaps I may remind you in this case of a statement made by President Roosevelt of the United States who in 1941, when apparently he felt himself to be in a similar position, used the metaphor, "If during an excursion I see a rattlesnake raising its head to assault me, then I do not wait for this rattlesnake to do so, but I kill it before".¹

Q. In July 1939, the Naval War Staff had conferences with the Foreign Office as to the manner in which actions were to be taken against Polish merchant shipping. The prosecution submitted a document pertaining thereto which bears your signature, directed to the German Foreign Office; NOKW-2731, Prosecution Exhibit 1383.² Will you please make brief comments on this communication?

A. This communication is signed by me. It represents a confirmation of certain conferences previously attended by some officers of the Naval War Staff in the Foreign Office. I don't know who held these conferences, but I assume the Chief of the Operations Department, or the appropriate expert in the department. Regarding the document itself, it shows that in the Foreign Office, in accordance with the implementation order for Case White, measures concerning warfare against merchant shipping in the Baltic had been discussed. Now regarding this conduct of warfare against merchant shipping, under certain circumstances political

¹ "The Time for Active Defense is Now," radio address by President Franklin D. Roosevelt at Washington, D. C., 11 September 1941. "But when you see a rattlesnake poised to strike, you do not wait until he has struck before you crush him." *Vital Speeches* (City News Publishing Co., New York), vol. 7, No. 24, p. 740.

² Document reproduced above in this subsection.

interests were touched upon or were involved, and, therefore, an agreement with the Foreign Office had to be reached. The measures as provided in this document, are within the framework of international regulations.

Q. Were such contacts with the Foreign Office and the Naval War Staff customary?

A. Such contacts were actually very infrequent, but in this sphere, of course, they had to take place at regular intervals and they were necessary. This necessity is clearly shown—

Q. May I interrupt you, Witness. I believe there was an error in the translation. It was said that these conferences took place “at regular intervals” in the translation. Did you say so?

A. No.

Q. Will you please repeat on what occasions and when such conferences and such contacts took place?

A. These contacts with the Foreign Office which were very rare, were necessary as a rule when matters such as measures against merchantmen, or measures of naval warfare, which touched upon political interests, were the subject of discussions. Such a contact was necessary from a purely formal point of view because the informing of neutral governments was handled by the Foreign Office.

Q. The next documents are C-126 E, Prosecution Exhibit 1092, NOKW-2196, Prosecution Exhibit 1097, and NOKW-2761, Prosecution Exhibit 1385.* These three documents have reference to the precautionary dispatch of U-boats, and of merchant shipping naval forces to the Atlantic. These measures obviously point to the fact that offensive measures in the West were also provided for, don't they?

A. Here again you have a distinction between military offensive measures and measures pertaining to aggressive war. This, here, concerns the fact that in a possible case of war, precautions with respect to the enemy had to be made. That is, that adequate coverage was secured for the contingency that in the case of war with Poland the Western Powers might declare war upon us. They were defensive measures which bore an offensive character, because ultimately, one or two pocket battleships and ten or fifteen submarines were unable to conduct an aggressive war, but their purpose was in case of the outbreak of hostilities to relieve our shores and our home waters by attracting the attention of the enemy forces, thus protecting the areas close to home waters. This actually occurred when the pocket battleship “Graf Spee,” in the

* Ibid.

first months of the war emerged in the South Atlantic and tied down numerous British naval craft until it was hunted down and dealt with by them.

Q. As a supplement to this, could you tell us for how long the pocket battleship, "Graf Spee" engaged enemy naval forces?

A. From the outbreak of the war, that is, from the beginning of September until the middle of December, I believe the 14th or 15th of December 1939.

Q. I now read from Document C-126 E. It concerns "Operational Instruction for the Commitment of Atlantic Submarines", and I will read the last sentence: "In case the operations do not take place, this instruction is to be destroyed on 1 October 1939, at the latest." What does it mean, and what do you gather from it?

A. I assume that this is a cover letter which was to accompany the operational orders issued to the persons in charge of the U-boat flotilla. From the wording which you have just read to me, it can clearly be discerned that at the time of the issuance of these orders, it was expected that possibly these orders would not be translated into action.

Q. This also merely concerns contingency, doesn't it?

A. Yes, it does.

Q. On 22 August, this Hitler conference or address on the Obersalzberg, which has frequently been mentioned here, took place. Who in addition to you was present, representing the navy?

A. I accompanied, of course, Admiral of the Fleet Raeder, the Commander in Chief of the Navy. In addition Admiral Albrecht, Admiral Carls, and Admiral Boehm also attended the conference, and possibly some other naval officers as well.

Q. Now, or in the course of this address, was the conflict with Poland mentioned in such a way that it was said the conflict was inevitable and hostilities were imminent?

A. No, in no way at all. Perhaps I may first refer to the testimony which was made here by Field Marshal von Leeb, by General Halder, and by General von Sodenstern, who also shared the view that the conference on 22 August 1939, in no way represented the final and irrevocable decision for the start of the war.

* * * * *

Q. Now, after the address at the Obersalzberg, did you talk with your commander in chief, Admiral Raeder concerning this address of Hitler?

A. Yes. That was at the aerodrome in Salzburg. I left for Berlin by air from Salzburg with Admiral Raeder, and I asked him about his impression of the speech.

Q. What did Admiral Raeder tell you?

A. Admiral Raeder was of the view, like myself, that possibly the attitude of the Western Powers as depicted by Hitler, in the matters of the settlement of the Polish question, might possibly have been misjudged. For the rest, he was of the opinion that Hitler in all circumstances would find ways and means again to reach a peaceful solution.

Q. And he explicitly communicated that to you as his own view?

A. Yes. He did. And he expressed, moreover, that on account of this anxiety which he felt, he wanted to talk with Hitler at all costs in order to communicate to Hitler his own view regarding the Western Powers, because he himself regarded the position in such a light, that without wanting to, Hitler might possibly slide into a serious war with the Western Powers.

DR. MECKEL: Your Honor, in this connection I would like to refer to two exhibits submitted by the prosecution regarding this matter. They are typewritten pages which bear no signature, and do not show the originator. At the time when these documents were presented, they are 798-PS, Prosecution Exhibit 1101 and 1014-PS, Prosecution Exhibit 1102, it was ruled by the Court that these documents had not been properly identified, but they would be admitted subject to that objection. I don't know whether a more specific identification has taken place on the part of the prosecution. The ruling was made on 27 February. Exhibits 1101 and 1102—may I submit two photostatic copies to the Tribunal? I will submit the two photostats to the Tribunal right now.

PRESIDING JUDGE YOUNG: Do you have any idea where they came from, Mr. Niederman?

MR. NIEDERMAN: Is it document 798-PS?*

PRESIDING JUDGE YOUNG: It is 798-PS.

MR. NIEDERMAN: Before the IMT there were two versions of this, in fact, there were three versions on the same theme offered by various members of the prosecution. These two were admitted, but the third version, which was C-3, I believe was denied. The IMT at the time said that they were apparently captured notes, and in the judgment they said they were sure that they were authentic, and therefore, were admitted in evidence. The IMT judgment, I think, specifically mentioned these two documents.

* Ibid.

PRESIDING JUDGE YOUNG: I think on that subject that they will stand. They were evidently captured documents, or notes of some sort, and so frankly I don't know that they have much weight.

MR. NIEDERMAN: I might add also, that there was considerable testimony before both the IMT and here, I believe, concerning the accuracy of those notes.

PRESIDING JUDGE YOUNG: I was going to state that there has been a good deal of testimony here about what took place, and somebody wrote this down. About all the versions, just what took place, and we will have to figure it out as best we can. I think that we will let them stand for whatever weight they may have as to what did take place.

DR. MECKEL: Now, Admiral, when did you realize that there would be a war?

DEFENDANT SCHNIEWIND: My doubts as to the actual occurrence of war had not been removed until finally war broke out. Particularly, there were doubts when suddenly a stop was put to marching orders, which already had been issued on 25 August, and at the same time we learned that apparently Great Britain and Italy were trying to reach some compromise. My doubts were finally dissipated when the marching order for 1 September was not rescinded, and the first shots were fired.

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**TRANSLATION OF DOCUMENT SCHNIEWIND SKL 229
SCHNIEWIND DEFENSE EXHIBIT 42**

**EXTRACTS FROM THE WHITE BOOK OF THE GERMAN FOREIGN
OFFICE, 1939, ENTITLED "DOCUMENTS EXPLAINING
EVENTS LEADING UP TO THE WAR"**

Nos. 435 and 436

Memorandum of an Official in the Political Department of the
Foreign Office

Berlin, 23 August 1939

Vice Consul von Grolmann of the German Consulate General in Danzig, has just telephoned the following message:

At about 2:25 p.m., a German passenger plane was fired at by Poles in the neighborhood of Heisternest on the Hela Peninsula while on its regular flight from Berlin via Danzig to Koenigsberg. The machine was about six nautical miles away from the coast, flying at an altitude of approximately 160 feet. The shells exploded at a distance of approximately 160 feet to the side and in

front of the plane. It was only by chance that the plane was not hit.

(As of last night German passenger planes, acting on instructions, no longer follow the route via the prescribed zones across the Polish Corridor, but must make a detour over the Baltic).

[Signed] BERGMANN

Berlin, 24 August 1939

Apart from the shelling of the Lufthansa plane D-APUP off Hela which we reported yesterday, two further reports regarding the shelling of aircraft have been received:

1. At about 1:35 p.m. the aeroplane D-APUP, Savoia type piloted by Boehner, when making the trip from Danzig to Berlin was shot at by antiaircraft guns on Hela and also from aboard a Polish cruiser lying at a distance of 25 miles off the coast. The aeroplane was approximately 10 to 12 miles off the Hela Peninsula, flying at an altitude of 4,875 feet. Eight shell explosions were observed at a considerable distance from the machine.

2. At 4 p.m. the aeroplane D-AMYO, of the Junkers 86 type, piloted by Neumann, was fired at from the Hela Peninsula while on its flight from Danzig to Berlin. Distance from the coast 5 to 6 nautical miles, altitude approximately 3,900 feet. The range was too short and too low.

[Signed] SCHULTZ-SPONHOLZ

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON KUECHLER*

DIRECT EXAMINATION

* * * * *

DR. BEHLING (counsel for defendant von Kuechler): Did you suspect the possibility of a warlike conflict with Poland?

DEFENDANT VON KUECHLER: No. I did not expect it. If I looked at the conditions of East Prussia, the East Prussian forces were extraordinarily small and insignificant. We lacked arms, we had no aircraft, no heavy arms, no tanks, no cars, vehicles, or trucks. In the province of East Prussia there was no armament industry which might have manufactured arms; there were no factories which would have been capable of repairing arms or vehicles. Then, we had the political situation in the Polish Corridor; this Polish Corridor separated East Prussia from the rest of Germany so that in the event of war the communications with the Reich would quite certainly have been severed and the sea communica-

* Complete testimony is recorded in mimeographed transcript, 27-29 April 1948, pp. 2787-8002.

tions could also be stopped by the Poles with their fleet so that we wouldn't have had any direct communication at all with the Reich.

* * * * *

Q. Do you know approximately how strong the enemy armies were which were surrounding East Prussia?

A. They were vastly superior to us. I can't state the exact figures.

Q. What armies were there?

A. There were the Lithuanians in the east, and Poles to the south and to the west.

Q. You talked before about the construction of defensive positions in East Prussia. Was the expedited expansion of these fortifications also demanded by the Reich Defense Ministry and its successors?

A. Yes.

Q. How do you arrive at that conclusion?

A. During my entire time as commanding general, they attached great importance and urged for the expansion of these defense fortifications; even in the spring of 1939, the Reich Defense Ministry or the High Command of the Army demanded that the area around Loetzen and Allenstein was to be adapted for all-round defensive systems. This measure which was very expensive and asked for a good deal of manpower would have been senseless if the top military leadership had not expected an invasion by strong hostile forces, either from the south or from the east into the province of East Prussia, so that these two places, that is Allenstein and Loetzen, were to be expanded as a fortress and adapted for all-round defense. They were to be strong points in conjunction with the field army to defeat the adversary in East Prussia.

Q. Now, what else confirmed you in your idea of peaceful intentions, or that there wouldn't be a war between Germany and Poland, Field Marshal?

A. In the first place, I did not believe that Hitler would use these young armed forces of ours for an armed conflict, with all the defects which are necessarily attached to such a young growth. As I have stated, in East Prussia we had no heavy arms, no tanks, we were cut off from western Germany; we had no opportunities of manufacturing or replacing our own materials needed in case of war. In the event of war we were completely

dependent upon our own resources and, therefore, the position of East Prussia, in my view, called for a peaceful development.

Q. What additional external reason was to be added to this which confirms you in your assumption, Field Marshal? Do you recall the Tannenberg celebration?

A. Oh yes, I do; that was the second reason. The second reason was that upon the anniversary, the 25th anniversary of the battle of Tannenberg in East Prussia (the battle was in 1914) a great celebration had been planned. Thousands of veterans who had participated in the battle had come to East Prussia. Great preparations had been made; a parade ground had been prepared; podiums and radio equipment had been installed; for the spectators hutments had been built, telephone communications had been installed; special tracks had been built for the diplomatic trains; billets had been made available. In short, all preparations had been made in order to celebrate this day in the most liberal manner. The third reason from which I derived my belief that war could be avoided was that we were continuously urged to expand our fortifications and defense.

Q. Field Marshal, now subsequent to the celebration of Tannenberg what was intended to take place then?

A. After the celebration of the anniversary of Tannenberg, a great maneuver had been planned and these exercises were not cancelled, but preparations for them were maintained.

Q. Were they the usual fall maneuvers?

A. They were the usual fall maneuvers, but they exceeded the scope of the usual minor maneuvers; it was a spectacle designed as such because, in addition, all foreign diplomats and military attaches had been invited to attend.

Q. Then you had the unique spectacle that while on the one hand the war veterans streamed to East Prussia by sea and across the Polish Corridor, on the other hand Hitler made political preparations for war.

A. Yes, and for that reason I thought the preparations for war were not genuine.

Q. Now, Field Marshal, on 22 August 1939, you were ordered to Hitler and you participated in this conference.

A. Yes, that was in Obersalzberg.

Q. Now, was your good faith shaken by Hitler's speech?

A. No.

Q. And why not, Field Marshal?

A. Hitler explained to us his political conceptions; he ended by saying that the Reich Foreign Minister would go to Russia by air in order to conclude a treaty with Russia, and I believe he also cited that the negotiations with Poland would continue. But the conclusion of a treaty with Russia was bound to change the political situation completely, as far as I could assess it, because it did not seem to me that it was possible for us to conclude a treaty with Russia and a few days afterwards would attack a state which was on more or less friendly terms with Russia. That I thought was impossible. In addition, you have to consider that, as General Halder testified, this conference took place in public, and that most of the participants came by air to Salzburg or Munich in full uniform; they drove to Obersalzberg and returned from there through a district—that was in August—when there were many foreign tourists about, so that I thought the whole thing was merely a bluff on the part of Hitler.

Q. The prosecution maintains, Field Marshal, that you, as a military leader, had incited Hitler to war against Poland or to one of the other campaigns.

A. I never talked with Hitler about politics, about war, or the possibility of a war.

Q. I will now put to you Document NOKW-2822, Prosecution Exhibit 1389.* It is the war diary of the I Army Corps from the first days of August, 1939. How is it, Field Marshal, that as early as the first days of August there are records which bear the designation "War Diary"?

A. At all higher staff headquarters, diaries were kept during special exercises. There is nothing unusual in this case that a diary was kept,—the purpose of which was to record the chronological sequence of events. Why this diary, which was begun on 1 August 1939, is called a war diary is not intelligible to me, because on 1 August, really nobody could know that there would be a war. I surmise that this diary, this war diary was compiled after the outbreak of war from the diary which was kept by I Corps about the preceding events. I also base my assumption on the fact that on the cover page the date is lacking "From such and such, to such and such", so that if the war diary had actually been initiated on 1 August, then that would certainly have been recorded.

Q. Then you mean the date of the actual beginning of events is missing?

A. Yes.

* Document reproduced in this section.

Q. Field Marshal, at the Hitler conference of 22 August 1939, was there a discussion about the burning questions of the day?

A. No, they were not discussed, nothing was discussed; none of the participants had an opportunity to make any comments. Hitler—as I also frequently witnessed on later occasions—just lectured to us and stated his views, and then, at the end of the conference, I think Goering thanked him, and then things were finished.

Q. As to your view that there would be no armed conflict, were you subsequently further confirmed in that view, Field Marshal?

A. Yes. On 25 August, when the attack was scheduled to start, the attack was suddenly stopped or prohibited and the troops were withdrawn from the frontier. This very sudden stop, so near to the time, gave me the certain feeling that all danger was passed and that it was merely a military bluff on the part of Hitler.

Q. During this time, were the preparations for the fall maneuvers and the Tannenberg celebration still under way?

A. Yes. Preparations for the Tannenberg celebration and the fall maneuvers had not been cancelled and were continued, and after 25 August, I assumed that the Tannenberg celebration and the fall maneuvers would then take place.

Q. Now, Field Marshal, war did break out. You commanded the 3d Army and surrounded the Fortress of Modlin, did you not?

A. Yes.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. NIEDERMAN: From April 1937 until 1 September 1939, you were commanding general of the I Corps in East Prussia, were you not?

DEFENDANT VON KUECHLER: Yes.

Q. And automatically when mobilization orders came, the I Corps became the 3d Army under your command?

A. Yes. It was like this. My mobilization orders were for the Commander in Chief of the 3d Army. I myself had to form the staff according to the mobilization orders and, of course, I formed it for the most part consisting of members of the staff of the I Corps.

* * * * *

Q. Now, among the reasons that you gave for not expecting war with Poland while you were in East Prussia was that you lacked everything necessary, as you put it, to conduct an aggressive war, you were short of tanks, armaments, and so on; isn't that your testimony?

A. Yes.

Q. Now, on what date did Germany invade Poland?

A. On 1 of September 1939.

Q. Then, when did Warsaw capitulate to your army?

A. I believe on 27 September. I don't know exactly. The situation was that the emissary came to me and negotiated with me, because I had asked Warsaw to surrender. An intermediary came to see me but I could not negotiate with him; the negotiations were carried out with Blaskowitz. The emissary who came to my army, had to be brought via a detour to the western side so that we could carry out the negotiations there. My army, although it had the city encircled, was not allowed, on Hitler's order, to—

Q. I am sorry to interrupt you. All I am interested in is that it took you 26 or 27 days to reach Warsaw and get its surrender, and yet you are prepared to testify here that you, in East Prussia, were not prepared to take the offensive against Poland because of lack of equipment?

A. Yes.

Q. Did you—

DR. BEHLING: The witness wanted to elaborate on that.

A. I wanted to put a counter question. You mean because it went so fast, we must have had strong forces to attack, is that what you mean?

Q. I think my question spoke for itself. Now, we continue. What was the mission of your army when you invaded Poland?

A. The mission of my army was, firstly, to take up contact, or rather, to alleviate the march of the 4th Army through the Corridor, and to advance towards Graudenz, and if possible to take this town. The second mission was, for strong forces from the area south of Allenstein to advance towards Warsaw in order to cut off this city from the east, if possible. It was our third mission to guard the eastern frontier and to hold it against Polish fortifications and against Lithuania.

Q. Now, would you describe that mission as offensive or defensive in character?

A. An offensive mission.

Q. I will now show you Document NOKW-229* that was put to you yesterday. I am afraid I didn't understand your answer concerning it and I wish you would repeat it again for me after you have seen it. That is Prosecution Exhibit 1087. Do you have the document, Witness?

A. Yes.

Q. You are familiar with that, I believe?

A. I have read it here. I know it.

Q. Now, did I understand you to testify yesterday that you did or did not receive that document?

A. Oh, yes, I did receive it.

Q. You did receive that document?

A. Yes.

Q. Will you read—I beg your pardon.

A. You mean, at the time?

Q. Yes, at the time, yes. Now, will you give us the date of the document.

A. It is 15 June 1939, the Commander in Chief of the German Army.

Q. Now, will you read "1" of Part A, of the document. It is very short, I think.

A. Part A, "1"?

Q. That's right. Now, will you read that, please?

A. "Intention of the Commander in Chief of the Army: Purpose of the operation is the destruction of the Polish Armed Forces. The political leadership demands that the war should be opened with strong surprise blows and be led to quick success."

Q. That is enough, I think. Now, there could be no doubt, after you received that directive in June, that the intentions of the army towards Poland were aggressive in nature. Was there any doubt in your mind?

A. Well, that still doesn't mean that a war would actually break out. All I can say is what I believed, and I did not believe that a war would break out. I did not believe in the possibility that Hitler would use the young armed forces and, after all, according to the statement which I made this morning, I did not believe that a war would break out. This directive is an order which I received as Commanding General from the Commander in Chief of the Ger-

* Ibid.

man Army via the army group, and as an officer I can do nothing but make preparations as ordered. What the political leadership does, and what the military leadership will do, subsequently does not concern me as commanding general. I had to carry out the orders which I received.

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2. THE OFFENSIVE IN THE WEST

a. Denmark and Norway

TRANSLATION OF DOCUMENT TC-31
PROSECUTION EXHIBIT 1115

MEMORANDUM HANDED TO THE NORWEGIAN FOREIGN MINISTER
BY THE GERMAN MINISTER IN OSLO ON 2 SEPTEMBER 1939

German Embassy

Memorandum

The German Reich Government is determined, in view of the friendly relations which exist between Norway and Germany,* under no circumstances to prejudice the inviolability and integrity of Norway and to respect the territory of the Norwegian State. In making this declaration the Reich Government naturally expects, on its side, that Norway will observe an unimpeachable neutrality towards the Reich and will not tolerate any breaches of Norwegian neutrality by any third party which might occur. Should the attitude of the Royal Norwegian Government differ from this so that any such breach of neutrality by a third party recurs, the Reich Government would then obviously be compelled to safeguard the interests of the Reich in such a way as the resulting situation might dictate.

Oslo, 2 September 1939

This is to certify that the above is a true copy of the memorandum which was handed to the Norwegian Foreign Minister by the German Minister in Oslo on the 2d of September 1939.

Oslo, 3 October 1945.

[Signed] TRYGVE LIE
Foreign Minister

* Treaty of nonaggression between Germany and Denmark, 31 May 1939. See Document TC-24, Prosecution Exhibit 1114, reproduced in *Nazi Conspiracy and Aggression, op. cit. supra*, vol. VIII, p. 373.

PARTIAL TRANSLATION OF DOCUMENT C-122
PROSECUTION EXHIBIT 1117

EXTRACT FROM WAR DIARY OF NAVAL WAR STAFF,
3 OCTOBER 1939, CONCERNING NORWAY BASES

3 October 1939

5. The Chief of the Naval War Staff considers it necessary that the Fuehrer be informed as soon as possible of the opinions of the Naval War Staff on the possibilities of extending the operational base to the north. It must be ascertained whether it is possible to gain bases in Norway under the combined pressure of Russia and Germany, with the aim of improving fundamentally our strategic and operational position. The following questions must be given consideration:

- a. What places in Norway can be considered as bases?
- b. Can bases be gained by military force against Norway's will, if it is impossible to carry this out without fighting?
- c. What are the possibilities of defense after the occupation?
- d. Will the ports have to be developed completely as bases, or have they already decisive advantages as supply positions? (Commander of submarines already considers such ports extremely useful as equipment and supply bases for Atlantic submarines to call at temporarily.)
- e. What decisive advantages would exist for the conduct of the war at sea in gaining a base in North Denmark, e.g., Skagen?

TRANSLATION OF DOCUMENT C-5
PROSECUTION EXHIBIT 1118

LETTER FROM ADMIRAL RAEDER TO NAVAL WAR STAFF,
9 OCTOBER 1939, CONCERNING NAVAL BASES IN NORWAY

Commander of Submarines Wilhelmshaven, 9 October 1939
Operations Section
Top Secret 240, Matter for Chiefs

Top Secret

To High Command of the Navy—Naval War Staff/1st Section
Subject: Base in Norway

No previous reference in writing [pencil note]

I. *Suppositions*

- a. A position outside the Shetlands—Norway Straits.
- b. Freedom from ice.
- c. Rail communications.

These suppositions apply only to Trondheim or Narvik.

II. *Advantages and disadvantages*

1. *Trondheim*. Advantages—

a. Position within the fiord which is unaffected by artillery action from the sea.

b. Deep water in the entry channels—difficult for the enemy to mine in their mining operations.

c. Existence of several entry and exit routes.

d. Protected areas directly in front of the harbor for exercises and entry.

e. Southern position; i.e., short lines of communications to Germany, better climatic conditions, shorter route to the Atlantic.

f. Basins which, according to the North Sea Handbook and instructions of the Navy office at Hamburg, are suitable for submarines.

g. Several industrial installations which facilitate the construction of repair and supply installations.

Disadvantages—Short distance from the bases of the British Air Force—danger of air attack.

2. *Narvik*. Advantages—The same conditions as Trondheim [paragraphs] *a*, *b*, *c*, and *d*.

e. Greater distance from British bases—less danger of air attack.

Disadvantages—

a. Northern position: long lines of communication to Germany, unfavorable climatic conditions, longer route to the Atlantic.

b. Communication by rail only with the Baltic—the Gulf of Bothnia not free from ice.

c. No basins, quay installations only in the bay.

d. Very few industrial installations.

Trondheim is therefore the more favorable place.

III. The following is therefore proposed:

1. Establishment of a base in Trondheim, including:

a. Possibility of supplying fuel, compressed air, oxygen, provisions.

b. Repair opportunities for overhaul work after a voyage.

c. Good opportunities for accommodating submarine crews.

d. Antiaircraft protection, naval artillery, patrol and mine sweeping units.

2. That facilities for supplying fuel in Narvik as an alternative be arranged.

[Signed] DOENITZ

PARTIAL TRANSLATION OF DOCUMENT C-71
PROSECUTION EXHIBIT 1119

NOTE FOR WAR DIARY OF NAVAL WAR STAFF, UNDATED,
CONCERNING PREPARATION FOR "WESER EXERCISE"

* * * * *

To be added [Beitrag] To the War Diary of the Commander in Chief of the Navy (Naval War Staff).

Subject: "Weser Exercise"

1. 10 October 1939. First reference of the Commander in Chief of the Navy to the Fuehrer concerning the importance of Norway for naval and air warfare. Fuehrer intends to consider the question. 12 December 1939. Reception of Q. [Quisling] and H. [Hagelin] by the Fuehrer. In sequence, instruction to OKW to make mental preparations. The Commander in Chief of the Navy is having a study made, which will be ready in January. In connection with this study, Captain Krancke is working on the Operation Weser Exercise in the OKW.

In the meantime H. [Hagelin] maintained contact with Chief of Staff, High Command of the Navy. His goal was the development of the Q. [Quisling] Party, so that it would be able to act, as well as instruction of High Command of the Navy on political development in Norway and military questions. In general he pressed for speeding-up of preparations, but considered first of all an expansion of the organization requisite. Money and coal support which had been promised him developed very slowly and inadequately, about which he repeatedly complained. Not until the end of March did Q. [Quisling] consider the operation so urgent that he could not wait for the expansion of his organization. The military advice of H. [Hagelin] was referred to OKW.

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TRANSLATION OF DOCUMENT SCHNIEWIND SKL 308
SCHNIEWIND DEFENSE EXHIBIT 49

EXTRACT FROM WAR DIARY, NAVAL OPERATIONS STAFF,*
11, 12 DECEMBER 1939, CONCERNING NORWAY

* The terms, "Naval War Staff," and, "Naval Operations Staff," were used synonymously for translating "Seekriegsleitung (Skl)."

Norway

Excerpt from the War Diary of the Naval Operations Staff—1st
Department, Part A, of 1-31 December 1939

Page 75:

11 December, 1200 hours.

Discussion of the former Norwegian War Minister Quisling, as representative of Nationalist Norway, with the Supreme Command of the Navy on the situation in Norway, on his political attitude toward Britain and Germany, as well as on the possibilities of further political development. (Minutes of the conference, see War Diary, part C, number 7).

Page 81:

12 December, 1130 hours.

Conference on the situation with the Chief of the Naval Operations Staff.

Special points: Question of Norway, result of conference with Quisling on 11 December. Evaluation of situation. Changes in the strategical, military, and political situation in case of an occupation of Norway.

1. By Britain.
2. By Germany.

(See: preliminary considerations of the Naval Operations Staff, War Diary part C, number 2)

TRANSLATION OF DOCUMENT C-63
PROSECUTION EXHIBIT 1121

LETTER FROM CHIEF OF THE OKW, KEITEL, TO ARMY, NAVY,
AIR FORCE, AND DEPARTMENT NATIONAL DEFENSE,
27 JANUARY 1940, CONCERNING "STUDY N"

The Chief of the High Command of the Armed Forces

No. 22045/40 Top Secret

Armed Forces Operations Office/Dept. National Defense

Berlin, 27 January 1940

5 copies—copy No. 2

Top Secret

Matter for Chiefs
Through officer only

Subject: Study "N".

Reference: 22039/40 Top Secret

Armed Forces Operations Office/Dept. National
Defense (I) 23 Jan. 1940.

The Fuehrer and Supreme Commander of the Armed Forces desires that work on the "Study N" be continued under his personal and immediate influence and in closest collaboration with the conduct of the war as a whole. For these reasons the Fuehrer has ordered me to take charge of the further preparations.

For this purpose a working staff will be formed within the High Command of the Armed Forces; this staff will at the same time represent the nucleus of the future Operations Staff.

I request the High Commands of the services each to appoint one officer suitable as intelligence officer and, if possible, trained in questions of organization and supply. The Office for Foreign Counterintelligence will furnish the counterintelligence officer; and the Armed Forces Operations Office will furnish the transport experts. One officer for signal communications and one officer for general questions of territorial administration.

The date when the staff will convene will be communicated later.

All further preparations will be conducted under the code word "Weser Exercise."

[Signed] KEITEL

Distribution:

Commander in Chief of the Army	copy No. 1
Commander in Chief of the Navy	copy No. 2
Reich Minister for Aviation and Commander in Chief of the Air Force	copy No. 3
Armed Forces Operations Office	copy No. 4
Department National Defense	copy No. 5

PARTIAL TRANSLATION OF DOCUMENT NOKW-065
PROSECUTION EXHIBIT 36

EXTRACTS FROM AFFIDAVIT OF GENERAL JODL, 26 SEPTEMBER 1946,
CONCERNING THE OPERATION "WESER EXERCISE"

I, General Alfred Jodl, swear, state, and depose—

* * * * *

Warlimont, as Deputy Chief of the Armed Forces Operations Staff, participated in the preparation of operations about as much as I did, for he attended almost all conferences with Hitler anyway, the main conferences at noon—later on, regularly; in the beginning, not so often. That was partly so that I should not have to repeat to him everything that was discussed on these occasions. He was to hear everything, in order to avoid any misunderstandings. Thus, it can be said that he participated in the preparation

of the individual operations from their beginning nearly as much as I did. Of course, there were occasional moments in evening conferences at which he was not present, when Hitler said something particularly important, which he heard afterward only indirectly from me. As far as there was anything to be worked out in those questions, I had to tell him that I expected the staff to work this out, since it was an order.

* * * * *

Warlimont was the chief of a special staff for the case, "Weser Exercise." In this capacity, he had no other duties than the usual ones, except that, in this case, for the first time, the Armed Forces Operations Staff prepared the details of an operation to a greater extent than was customary with our system. This was the first operation prepared without the General Staff of the Army, for reasons of secrecy. For this purpose, a so-called Special Staff was set up. Practically, it consisted of the Armed Forces Operations Staff as before, somewhat reinforced by a few specialists detailed for this purpose. They were general staff officers of the air force and of the navy. I believe, that there was nobody from the army. I do not know the names of the participants. They were younger men. Later, the staff which was in fact to lead the operations was designated. It was the Falkenhorst Corps Staff. This Staff Falkenhorst was combined with my operations section in the same locality and together they worked out the details of the Norway operation. We called this operation, "Weser Exercise." Falkenhorst was independent. For this operation he was under the direct authority of the Fuehrer, since it was carried out by the OKW, and Hitler was the Chief of the OKW. Warlimont was a kind of deputy chief of staff. Together they worked out the details of this operation according to Hitler's directives. Since this was the first time that we worked out the details, we called it a special staff. The order of the preparation was issued on 27 January 1940, and the order to execute it, was given on 2 April for the 9th. During that time I talked daily with Warlimont. At that time we were constantly in Berlin. I sat in the Reich Chancellery, and Warlimont worked in the offices of the former Ministry of War in the Bendlerstrasse, a 5-minute car drive away. Insofar as secrecy allowed it, much was done by telephone. But most of it was discussed orally. Every day at noon he reported to the Fuehrer, and afterward we discussed the various details for weeks and months.

* * * * *

I have read the above affidavit, consisting of ten pages in the German language, and I declare that it is the whole truth accord-

ing to the best of my knowledge and belief. I have been given the opportunity to make alterations and corrections in the above affidavit. I have given this testimony voluntarily, without promise of reward and was subjected neither to pressure nor threats.

26 September 1946

[Signed] A. JODL

TRANSLATION OF SCHNIEWIND DOCUMENT SKL 315
SCHNIEWIND DEFENSE EXHIBIT 57

OFFICIAL NORWEGIAN AND BRITISH STATEMENTS,
19, 20, 24 FEBRUARY 1940, CONCERNING ALTMARK INCIDENT

Excerpts from "Urkunden zum Seekriegsrecht"
(Documents pertaining to the Law of Sea Warfare)

From 1 September 1939 to 31 August 1940, compiled by the High
Command of the Navy, Section 1 Naval Operations Staff

(MDV. No. 117)

Page 406 and following

[Page] 520. Statement of the Norwegian Foreign Minister on the
"Altmark" Incident made on 19 February in the Norwegian
Storting* [Parliament] (translation)

I want to put before the Storting a matter which has greatly stirred the emotions of our people and found considerable interest far beyond the borders of our country. What happened in the night between Friday and Saturday was that some British men-of-war have become guilty of a severe violation of our Norwegian territorial waters, of the Norwegian neutrality and of Norwegian sovereignty. The newspapers have given an account of the essence of what has happened. British destroyers in the Norwegian Joessing Fjord made an armed attack on a German ship by the name of "Altmark," which was on its way within Norwegian territorial waters. This German ship was one of those ships which in Germany are called, "Reichskriegsdienstschiffe," that is to say, a government ship employed in the service of the German Navy. Thus, according to international law, it had to be regarded as a man-of-war and not as a merchantman. As we know, it had been employed for some time in the South Atlantic by the cruiser "Admiral Graf Spee," and later on made the attempt to escape the British. The "Altmark" made its first appearance in Norwegian territorial waters in the northern part (Frosee) [Frohavet] of the Trondheim Fjord on 14 February.

* According to an official communication.

By 16 February, the "Altmark" was off the coast of Jaerons, and we heard that British planes were around, perhaps within the Norwegian sovereign zone. But this we cannot establish with certainty. This may have been those airmen who passed to the British naval squadron in the North Sea the message as to the whereabouts of the "Altmark," and it can be taken for granted that the British were better informed concerning the "Altmark" than we were; for they knew of what we Norwegians had not the slightest notion, namely that the "Altmark" had a large number of English prisoners on board. When the ship reached the proximity of Sogndal, a small British flotilla was on the spot. It consisted of British destroyers of the normal type and one destroyer of a particularly large type (super-destroyer). A Norwegian torpedo boat followed the "Altmark," and another joined in the course of the afternoon. Some of the British destroyers entered Norwegian territorial waters and tried to send a prize party aboard the "Altmark." The senior Norwegian officer protested against this intention, however, and left the territorial waters again; but in spite of this, they returned in the evening. The Norwegian torpedo boat commander protested anew, but was given the answer that the British had received the order from their government to rescue the British prisoners on the "Altmark," no matter how strongly the Norwegian Government might protest. The "Altmark" put into Joessing Fjord. The two British destroyers, one of them the biggest, followed up and went alongside the "Altmark." A British crew boarded the German ship. A fight ensued and there was a certain amount of shooting on the "Altmark." The Germans were soon overpowered and fled across the ice ashore.

Seven Germans were killed or so severely wounded that they died of their wounds. An Englishman was shot. The British took all the prisoners they found aboard the "Altmark," numbering about 300 to 400, on their ships. The "Altmark" ran aground. It is plain that such a raid within the Norwegian sovereign zone must startle the Norwegian Government, and right the next morning it lodged as strong a protest as such an unlawful proceeding and violation of international law required. On the same morning the German Ambassador made a protest. He protested against the British violation of neutrality and stated moreover that the Norwegian Government had not given sufficient assistance to the German ships. All that can be said in answer to this is to point out the superior force which the Norwegian men-of-war had to confront. Two small torpedo boats against six large destroyers, one of them the biggest of its class. It would be contrary to all military custom to take up the fight against such odds; it would have been of no avail and sheer nonsense.

The conference which the Norwegian Prime Minister had with the British Ambassador on Saturday morning ended with the Prime Minister's saying: "I ask you to tell your government that what happened tonight has deeply hurt us and myself, and we are particularly depressed that a country like Britain, to which we have always entertained the best relations and with which we have always wished to live in friendship, has treated a small neutral country in such a manner."

* * * * *

[Page] 521. Statement of the British Prime Minister of 20 February 1940, in the House of Commons on the Norwegian obligations to Neutrality at the Time of the Passage of the "Altmark," Through Norwegian Territorial Waters*

I find it difficult in these circumstances to resist the conclusion that the Norwegian authorities have displayed complete indifference as to the use which might be made of their territorial waters by the German fleet. Even if such indifference was due to German pressure, it is nevertheless, in the view of His Majesty's Government, inconsistent with the active and impartial exercise of the duty of a neutral towards ourselves as belligerents. According to the views expressed by Professor Koht, the Norwegian Government sees no objection to the use of Norwegian territorial waters for hundreds of miles by a German warship for the purpose of escaping capture on the high seas and of conveying British prisoners to a German prison camp. Such a doctrine is at variance with international law as His Majesty's Government understands it. It would in their view legalize the abuse by German warships of neutral waters and create a position which His Majesty's Government could in no circumstances accept.

* Parliamentary Debate House of Commons, vol. 357, Sp. 1165.

[Page] 522. Statement of the Norwegian Foreign Minister of 24 February 1940, to the Norsk Telegrambyraa Concerning the Statement of the British Prime Minister in the House of Commons of 20 February 1940* (translation)

In regard to the theory which Minister of State Chamberlain now puts forward concerning the passage through neutral territorial waters of warships it must be pointed out, in the first place, that the Norwegian Government was under the impression that they were in perfect agreement with the British Government on this question. It was in 1938, that the Norwegian Government revised the provisions they had laid down regarding the obligations and rights of neutrality. There was, among others, a provi-

* According to official information.

sion concerning the right of warships of belligerent powers to stay 24 hours in Norwegian territorial waters. The British Government interpreted this to mean that this provision also applied to a warship enroute, whereas the Norwegian Government had only envisaged a call at a port. In the summer of 1939, the British Government approached the Norwegian Government enquiring on the interpretation of this point and emphasizing that there could be no other arrangement under international law than to allow a warship to sail Norwegian territorial waters without hindrance regardless of the 24-hour limit. The British Government contended that this arrangement was in force in all other countries. The Norwegian Government replied that it interpreted its own provision as the British Government wanted it to be defined, and that the wording had been chosen in agreement with the International Convention of 1907, to which Great Britain had also been a signatory.

* * * * *

TRANSLATION OF SCHNIEWIND DOCUMENT C-100
SCHNIEWIND DEFENSE EXHIBIT 58

MINUTES OF REPORT BY RAEDER TO HITLER, 23 FEBRUARY 1940,
ON OPERATION "WESER EXERCISE"

Excerpt from Memorandum on the report of the
Commander in Chief of the Navy to Hitler on 23 February 1940

Report of the C in C of the Navy to the Fuehrer on 23 February 1940, 1030 hrs. (Present: General Keitel, Brig. General Jodl, Commander von Puttkamer.)

5. "*Fall Weseruebung*" (operation "Weser Exercise"). Questioned by the Fuehrer about the possibility of maintaining the ore traffic from Narvik after the occupation of N. [Norway] the Commander in Chief of the Navy sets forth—

a. The most advantageous case regarding this traffic would be the maintenance of Norwegian neutrality.

b. As stated previously, the occupation by England of N. would be unbearable. For there would be no means to offset it; it would mean increased pressure on Sweden, possibly an extension of the theater of war to the Baltic Sea, loss of the *entire* ore import from Sweden.

c. The occupation by our forces of N. would result, temporarily at least, in a complete suspension of the ore traffic from Narvik, as the securing of the sea-borne transport, also inside the reefs, over a large part of the 800 knots is very difficult. An extensive

use of U-boats and squadrons of fighters would be necessary over a large part of the route. Penetration of enemy U-boats through the many inlets and shelling of the freighters from the sea are possible. Anyway, the loss would be only 2.5 to 3.5 millions of ton per annum, whereas, in the case of an occupation by the British, the entire import would probably be lost. Moreover, in the case of the occupation of N., Germany can bring strong pressure on Sweden which would have to comply with all demands of Germany.

d. Subsequently questions in connection with the carrying out of the occupation were discussed.

The Supreme Commander of the Navy pointed to the difficulty of synchronizing the occupation with air force transports in the North and with sea transports in the South. Transport by steamers of the "Scharnhorst" class (approx. 20 knots) or by tenders (approx. 20 knots). Material (possibly also troopships) first to proceed to Base North, as route of approach shorter from there.

High Command of the Armed Forces is ordered to inquire into this question.

[Signed] RAEDER

PARTIAL TRANSLATION OF DOCUMENT 1809-PS*
PROSECUTION EXHIBIT 1170A

EXTRACTS FROM GENERAL JODL'S DIARY (1940)

5 February. Special staff, "Weser Exercise," meets and is welcomed by the Chief of High Command of the Armed Forces and gets instructions. Representative of air forces is still absent.

* * * * *

28 February. I make the following proposition to the Chief OKW and after that to Fuehrer: "Case Yellow," and, "Weser Exercise," have to be prepared in such a manner that they will become quite independent from each other regarding time and strength. Fuehrer completely agrees with that proposition if at all possible. 1500 hours, Staff Falkenhorst reports about preparations made so far. In this connection I explain to him the new basis of preparations.

Proposition for employment of forces

N[orway]	4 parachute companies	22d infantry division less
	2 mountain divisions	16th Inf. Regt.

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. IV, pp. 377-411.

D[enmark] 1 corps headquarters	2 divisions, 7th wave [one] police division 1 division, 3d wave [one] regional defense division
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It has yet to be decided whether reinforced 11th Rifle Brigade is to be attached first to Group D, and then to Group N, or to Group N immediately.

Proposition as regards combat planes too high.

29 February. 1500 hours report of Staff Falkenhorst with Krancke, Buschenhagen, and Knaus which is very satisfactory to Fuehrer. He approves the suggestions.

Fuehrer wishes also to have a strong group at Copenhagen and detailed elaboration in which way the individual coastal batteries are to be overpowered. Commander in Chief of Air Force is instructed to make out immediately the order for army, navy, and air force, and Chief Armed Forces Central Office order concerning increase of staff.

* * * * *

TRANSLATION OF DOCUMENT C-174
PROSECUTION EXHIBIT 1129

DIRECTIVE CONCERNING PREPARATIONS FOR THE OCCUPATION
OF DENMARK AND NORWAY, 1 MARCH 1940, SIGNED BY HITLER

The Fuehrer and Supreme Commander of the Armed Forces
Armed Forces Operations Office/Dept. National Defense
No. 22070/40

Top Secret, Matter for Chiefs

Berlin 1, March 1940
9 copies—3d copy

Top Secret

[Stamp]

Top Secret
Through officer only

Directive for "Case Weser Exercise"

1. The development of the situation in Scandinavia requires the making of all preparations for the occupation of Denmark and Norway by a part of the German Armed Forces ("Case Weser Exercise"). This operation should prevent British encroachment on Scandinavia and the Baltic, further it should guarantee our ore base in Sweden and give our navy and air force a wider start line against Britain. The part which the navy and the air force

will have to play, within the limits of their capabilities, is to protect the operation against the interference of British naval and air striking forces.

In view of our military and political power in comparison with that of the Scandinavian states, the force to be employed in the "Case Weser Exercise" will be kept as small as possible. The numerical weakness will be balanced by daring actions and surprise execution. On principle we will do our utmost to make the operation appear as a *peaceful* occupation, the object of which is the military protection of the neutrality of the Scandinavian States. Corresponding demands will be transmitted to the governments at the beginning of the occupation. If necessary, demonstrations by the navy and the air force will provide the necessary emphasis. If, in spite of this, resistance should be met with, all military means will be used to crush it.

2. I put in charge of the preparations and the conduct of the operation against Denmark and Norway the Commanding General of the XXI Army Corps, Lt. General of the Infantry v. Falkenhorst (commander of "Group XXI").

In questions of the conduct of operations, the above named is directly under my orders. The staff is to be completed from all the three branches of the armed forces.

The force which will be selected for the purpose of "Case Weser Exercise," will be under separate command. They will not be allocated to other operational theatres.

The part of the air force detailed for the purpose of "Weser Exercise" will be tactically under the orders of Group XXI. After the completion of their task they revert to the command of the High Command of the Air Force.

The employment of the forces which are under direct naval and air force command will take place in agreement with the commander of Group XXI.

The administration and supply of the forces posted to Group XXI will be ensured by the branches of the armed forces themselves according to the demands of the commander.

3. The crossing of the Danish border and the landings in Norway must take place *simultaneously*. I emphasize that the operations must be prepared as quickly as possible. In case the enemy seizes the initiative against Norway, we must be able to apply immediately our own counter measures.

It is most important that the Scandinavian States as well as the western opponents should be *taken by surprise* by our measures. All preparations, particularly those of transport and of readiness, drafting and embarkation of the troops, must be made with this factor in mind.

In case the preparations for embarkation can no longer be kept secret, the leaders and the troops will be deceived with fictitious objectives. The troops may be acquainted with the actual objectives only after putting to sea.

4. *Occupation of Denmark* ("Weser Exercise South").

* * * * *

Added to this, having secured the most important places, the group will break through as quickly as possible from Fuenen [Fyn] to Skagen and to the east coast. In Seeland [Sjaelland] bases will be captured early on. These will serve as starting points for later occupation.

The navy will provide forces for the securing of the connection Nyborg—Korsøer and for swift capture of the "Little Belt" bridge as well as for landing of troops, should the necessity arise. She will also prepare the defense of the coast.

The air force will provide squadrons of which the primary object will be demonstrations and dropping of leaflets. Full use of the existing Danish ground defenses and air defense must be ensured.

5. *Occupation of Norway* ("Weser Exercise North"). *The task of the Group XXI*—capture by surprise of the most important places on the coast by sea and airborne operations.

The navy will take over the preparation and carrying out of the transport by sea of the landing troops as well as the transport of the forces which will have to be brought to Oslo in a later stage of the operation. She will escort supplies and reserves on the way over by sea.

Preparations must be made for speedy completion of coastal defense in Norway.

The air force, after the occupation has been completed, will ensure air defense and will make use of Norwegian bases for air warfare against Britain.

6. Group XXI will make regular reports to the High Command of the Armed Forces concerning the state of preparations and will submit a chronological summary of the progress of preparations. The shortest necessary space of time between the issue of the order for "Weser Exercise," and its execution must be reported.

Intended battle headquarters will be reported.

Code names: Weser Day—day of the operation. Weser Hour—hour of the operation.

[Signed] ADOLF HITLER

Distribution :

Commander Group XXI, copy No. 1
CinC Army, copy No. 2
CinC Navy, copy No. 3
CinC Air Force, copy No. 4
High Command of the Armed Forces
Chief, Armed Forces Operations Office, copy No. 5
Dept. National Defense, copy Nos. 6-9

TRANSLATION OF SCHNIEWIND DOCUMENT SKL 316
SCHNIEWIND DEFENSE EXHIBIT 59

ENTRY IN WAR DIARY OF NAVAL OPERATIONS STAFF,
4 MARCH 1940, CONCERNING ATTITUDE OF NORWAY

Excerpt from the War Diary of the Naval Operations Staff—
1st Section, Part A of 1-31 March 1940

4 March. In connection with the Altmark incident the German representation in Norway reports that a prevention of British military actions by Norway is *not* practicable. There is said to exist an order by the Norwegian military authorities forbidding to open fire on superior forces without permission. British tradition is said to have impressed its mark on the Norwegian Navy, for the rest the officers are lacking initiative to defend effectively the honor of their neutrality.

Further reports from Norway state that in the event of a forthcoming reshuffle of the government a Hambro-Mowinkel cabinet might declare itself ready "to concede to the Western Powers the right of passage under section 16 of the Covenant of the League of Nations."

PARTIAL TRANSLATION OF DOCUMENT NOKW-2265
PROSECUTION EXHIBIT 1124

EXTRACTS OF WAR DIARY OF NAVAL WAR STAFF, MARCH 1940,
CONCERNING "WESER EXERCISE"

War Diary of Naval War Staff, Section 1; Part A, Book 7,
from 1-31 March 1940

Control No. 2

By officer only!

War Diary of Naval War Staff (Section 1)

[Stamp]

Top Secret!

Through officer only!

Part A

Chief of Naval War Staff. Admiral of the Fleet Raeder
Chief of Staff of Naval War Staff. . . . Rear Admiral Schniewind
Chief of Section 1, Naval War Staff. Commodore Fricke

Book 7

Started: 1 March 1940

Finished: 31 March 1940

1 March:

Afternoon

Conference at 1 Naval War Staff with Captain Krancke of the Admiralty Staff OKW for "Weser Exercise."

* * * * *

2 March

Situation conference with Chief of Naval War Staff. Special features—operation "Weser Exercise," is discussed, in particular questions of organization. The difficulties in carrying out the "Weser Exercise" which requires the total commitment of the entire navy, are fully realized by the Naval War Staff. The problem, however, has now far exceeded the purely military field, and has become a political and war economic question of the first order.

It is no longer a question of improving the strategic position of Germany, and of obtaining isolated military advantages, or of considering the pros and cons of the possibilities of carrying out the "Weser Exercise," and of voicing military misgivings, but a problem of how the armed forces should act with lightning speed in accordance with the political developments and necessities.

4 March

Situation conference with Chief of Naval War Staff. Special features—urgent oral transmission by the OKW. The Fuehrer has ordered the carrying out of all preparations for "Weser Exercise," as quickly as possible. The planning of the operation is already to be concluded by 10 March (!), so that as from that date the Fuehrer can order the beginning of the action with a preparatory period of 4 days.

The demand made by the political leadership must be complied with. The extremely short period given is explained by the present political situation, which makes an early military intervention by the Western Powers in favor of Finland appear possible in the immediate future. Such intervention on the part of England in the Russo-Finnish conflict would have to be regarded

only as a *pretext* toward attaining the real strategic aim of an English landing in Norway, i.e., to cut off Germany from the iron ore supplies from Norway—Sweden by occupying northern Norwegian ore shipping ports, and the northern Swedish ore area, to apply the strongest pressure to Sweden in order to stop all ore deliveries to Germany, spreading of the war to Scandinavia, relieving the pressure of the German offensive in the West.

The short space of time allowed demands an unreserved concentration of all forces of the navy on this one task. All other operations planned are to be called off with immediate effect by the Naval War Staff. (Operation "Schleswig," mine laying operations by destroyers, sailing of cruiser "Luetzow," initial escorting of auxiliary cruisers and supply boats). The submarines ready for sailing to be held back for the time being.

The first operational instruction for the group commandos is being worked out inside the Naval War Staff, according to instruction I of OKW which is largely based on the previous considerations of the Naval War Staff.

The circle of persons working on this must be kept as small as possible, as the success of the operation is largely dependent on the degree of surprise.

* * * * *

Oral Report of CinC Navy to Fuehrer

26 March

Afternoon:

Subject of discussion

1. "*Weser Exercise*"—Commander in Chief Navy reports state of preparedness of the navy and explains that, although at the present moment and in the near future one need not reckon with an English *landing* in Norway, the British will try to interfere with German trade in neutral waters, and to cut it off entirely sooner or later. According to the opinion of the Commander in Chief Navy, Germany will sooner or later be confronted with the question of carrying out the "*Weser Exercise*." Therefore, Commander in Chief Navy favors an execution as early as possible, possibly taking advantages of the next new moon.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT L-323
PROSECUTION EXHIBIT 1122

DIRECTIVE, 6 MARCH 1940, SIGNED BY DEFENDANT SCHNIEWIND,
CONCERNING PREPARATIONS FOR THE OCCUPATION
OF DENMARK AND NORWAY

The Chief of Naval War Staff
B No. 1 Sec. Naval War Staff I Op. 231/40
Top Secret, Matter for Chiefs [Illegible initials]

Berlin, 6 March 1940

[Stamp] Top Secret
[Illegible initials]

[Stamp]

Naval Group Command West
In: 6 March 1940
523/40 Matter for Chiefs
[Illegible initials]

[Stamp]
Matter for Chiefs
Through officer only

Naval Group Command East
Naval Group Command West
[Handwritten] Fleet Command

*Directive from Chief of Naval War Staff for Case
"Weser Exercise"*

I. *Initial situation*—The development of the situation in Scandinavia requires that all preparations be taken to occupy Denmark and Norway by parts of the armed forces ("Case Weser Exercise"). This is to prevent British encroachments on Scandinavia and the Baltic Sea, to ensure our supplies of iron ore from Sweden, and to extend the bases of navy and air force for operations against England.

The basic aim is to apply to this operation the characteristics of a *peaceful* occupation with the target of giving armed protection to the neutrality of the northern states. Corresponding demands will be put to the government with the beginning of the occupation; governmental and administrative independence apart from German measures of military and foreign-political necessity will be promised insofar as no resistance is offered. Any resistance will be crushed by all military means.

II. *Objective*—Simultaneous sudden surprise occupation of the most important areas of Norway and Denmark. The crossing

of the Danish border and the landing in Norway will be carried out at the earliest opportunity.

It is of utmost importance that the northern states as well as the western countries are *taken by surprise* by our operations. All preparations must take into account this decisive factor. Impediment of work and certain gaps in the preparations must for the time being be taken into account. If certain indispensable preparations cannot be kept completely secret any more, different aims (West) must be pretended. Naval craft and formations are only to be informed about the real targets after setting sail.

The date of execution depends, in addition to the weather, above all upon the political situation. Preparations are therefore to be made so that the date of the operation (code: "Weser Day") may be ordered from 10 March on. "Weser Day" is the day of invasion. With regard to the initial measures, "Weser Day" will be ordered at least 4 days in advance. * * *

"Weser Hour" is not fixed yet. A later time may be considered if inadequate training for night flying and for blind flying of the air transport formations would require daylight for the whole distance to be covered by air.

In order to increase the element of surprise, and because of information on hand that the Norwegian Armed Forces are ordered *not* to resist a British invasion by force of arms, all forces will fly the British White Ensign until the beginning of disembarkation (anchoring, maneuvering alongside, or putting the first troops ashore).

There is one exception to this instruction, the Narvik group. The local military commander, Colonel Sundlo, is pro-German, so that on his part no difficulties are to be expected if the *German* flag is flown when entering port.

III. *Execution of the initial occupation*

A. *Norway*

(1) Surprise landing of troops by naval craft and by air-transport groups at Oslo, Arendal, Kristiansand, Bergen, Trondheim, and Narvik.

Distribution of forces viz, enclosure 1.

(2) Embarkation of the troops and setting sail of the groups of naval craft during darkness and in localities where embarkation, may escape observation. Setting sail immediately after embarkation if need be riding at anchor off shore until the advance starts.

Maximum camouflage. For schedule of embarkation and sailing, see enclosure 2.

* * * * *

B. Denmark

(1) Entering Jutland with motorized forces. During the advance, one motorized rifle brigade will branch off to Fuenen [Fyn] across the Belt bridge. Simultaneously establishing bridge-heads near Korsoer and Gedser. More troops to be ferried to Seeland [Sjaelland] for the march on Copenhagen.

* * * * *

C. Measures of the air force—Aside of the task of air transportation to Norway, assignment of several combat, bomber, and fighter groups for the intimidation and, if need be, for operations against Norwegians or Danish aircraft or other resistance. Parts (of the air force) will land on Norwegian airfields as soon as possible, and will there be on the alert for assignment in the country and, above all, against possible British counteroperations. The speediest possible transfer of antiaircraft artillery to southern Norway (Oslo, Stavanger, Bergen) is provided for.

* * * * *

XV. *Conclusion*—The operation is based upon the quick bringing forward of the first wave of occupation by formations of the navy. The successful execution depends to a large extent upon the initiative and determined will of the leaders of these formations. The weakness of the forces must be compensated by bold action and surprise execution.

The success of the operation means a decisive step in the further war against England.

Signed: RAEDER

BY ORDER:

[Signed] SCHNIEWIND

PARTIAL TRANSLATION OF DOCUMENT NOKW-2266
PROSECUTION EXHIBIT 1123

DIRECTIVE FROM NAVAL WAR STAFF, 12 MARCH 1940,
CONCERNING ALTERNATE LANDING POINTS IN NORWAY

Naval War Staff Berlin, 12 March 1940
B N. 1st [Sec] Naval War Staff I Op. 311/40 Control No. 10
Top Secret, Matter for Chiefs

Top Secret

To:

Naval Group Command West Control Nos. 1-30
Naval Group Command East Control Nos. 31-45

TRANSLATION OF DOCUMENT D-629
PROSECUTION EXHIBIT 1126

LETTER FROM KEITEL, JODL, AND DEFENDANT WARLIMONT,
TO RIBBENTROP, 3 APRIL 1940, CONCERNING THE
OCCUPATION OF DENMARK AND NORWAY

[Stamp] Top Secret

The Chief of the High Command of the Armed Forces
Armed Forces Operations Office/National Defense
No. 22126/40, Top Secret, (IV)

Berlin W 35, 3 April 1940
Tirpitzufer 72/76
Telephone: 21 81 91
2 copies—2d copy

To the Reich Minister for Foreign Affairs.

Dear Herr von Ribbentrop,

The military occupation of Denmark and Norway has been prepared for some time by the High Command of the Armed Forces at the Fuehrer's orders. The High Command of the Armed Forces therefore, had ample time to go into all the questions which have to be settled concerning the execution of this operation. The time which you, on the other hand, have for the political preparation of this action, is much shorter. I, therefore, believe I am acting in accordance with your ideas if I transmit herewith not only those requests of the armed forces which, for purely military reasons, should be complied with by the governments in Oslo, Copenhagen, and Stockholm, but moreover a number of wishes which, while concerning the armed forces only indirectly, yet are of the greatest importance for the achievement of their tasks.

In order to achieve complete coordination of action, I may ask you to effect personal contact between the German Plenipotentiaries designated for Oslo and Copenhagen and the military commanders at the earliest possible moment. The over-all command of the military operations is in the hands of Lt. General von Falkenhorst, commander of Group XXI. Under him, Special Missions Command XXXI, commanded by Lt. General of the Air Force Kaupisch, is directing the occupation of Denmark.

In compliance with the express order of the Fuehrer, I may furthermore ask you to restrict to the utmost the circle of persons participating in the preparations. As a matter of principle, no Supreme Reich Authorities or other offices except the Foreign Office and the High Command of the Armed Forces will par-

participate. The necessary information to the Supreme Reich Authorities will be communicated by the High Command of the Armed Forces on the day of the occupation only.

Heil Hitler!

Yours very sincerely,
[Initial] K [Keitel] 3 April
[Initial] J [Jodl]
[Initial] W [Warlimont]

TRANSLATION OF SCHNIEWIND DOCUMENT SKL 323
SCHNIEWIND DEFENSE EXHIBIT 64

ENTRY IN WAR DIARY OF NAVAL WAR STAFF, 8 APRIL 1940,
CONCERNING ALLIED MINE LAYING IN NORWEGIAN WATERS

Extract from War Diary of the Naval War Staff, Section 1, Part A
from 1-30 April 1940

8 April 1940

Weser Day minus 1
Special political information

1. *The Norwegian question*—Statement of the British and French Governments to Norway pertaining to mine laying by the Allies in Norwegian territorial waters.

"The Allied Governments have decided to exclude their enemy from the free use of parts of the Norwegian territorial waters, which obviously are of the greatest advantage to him. They have, therefore, decided to prevent the free passage of ships loaded with contraband through Norwegian territorial waters. They hereby give notice:

"Some parts of Norwegian territorial waters have been rendered impassable through mines. Ships passing through this area do so at their own risk. From the published list it can be seen that the free entry of Norwegian ships to their own harbor and villages is in no way hampered by the mine laying. In order to avoid even the slightest possibility of Norwegian ships and other ships passing through this area unintentionally at a time when it was not possible to warn them of the mines, measures have been taken whereby the demarkation lines of these areas will be patrolled by British ships up to 48 hours after the laying of the first mines in the areas in question. By this measure and the warning which has been broadcast, the safety of shipping will be guaranteed." (See position of the mine fields under "North Sea.")

By laying mines in Norwegian territorial waters, the Western Powers have now officially committed a flagrant violation of Norwegian neutrality. The political leadership is of the opinion that the measures taken signify only the first step of the strategical plans of the Allies, which foresees establishment of control in the northern area, stopping of the ore supplies from Norway, pressure on Sweden to stop ore deliveries to Germany, domination of the Shetland-Norway passage and extension of the war to Scandinavia.

PARTIAL TRANSLATION OF SCHNIEWIND DOCUMENT SKL 324
SCHNIEWIND DEFENSE EXHIBIT 65

ENTRY IN WAR DIARY OF NAVAL WAR STAFF, 26 APRIL 1940,
AND EXTRACT FROM GERMAN WHITE BOOK CONCERNING
BRITISH OPERATIONAL PLANS WITH RESPECT TO NORWAY

Excerpt from the War Diary of the Naval War Staff, Section 1,
Part A, from 1-30 April 1940

26 April 1940

Special Political Information

Norway—During the successful battle of the army at Lillehammer, most important documents in the form of operational orders for the British-Norwegian operation were found on captured British officers, which clearly indicated that a landing in Norway had been planned and prepared by the British, and was to take place at about the same time as the German operation. The orders bore the dates 2 April, 6 April, and 7 April. The operation was camouflaged under the code name Stratford Plan. Participating forces were called Stratforces. Landing scheduled at Stavanger for occupation of airfield Sola, in Bergen, Trondheim, and Narvik. German action beat English operational measures by a few hours. After German landing in Norway, English forces were switched by landing Stavanger troops in Andalsnes, Bergen troops in Namsos. Political leadership intends to report captured documents to the Diplomatic Corps, after all details are on hand.

Extract from
White Book No. 4 of the German Foreign Office, Berlin 1940
Group A
Orders which were found on British officers taken prisoner
in Lillehammer

STRATFORD
PLAN AND FIRST MAINTENANCE PROJECT
CONTENTS

- Par. 1. General.
2. Secrecy.
3. Establishments and scale of equipment.
4. Relations with local authorities.
5. Transport and accommodation.
6. Maintenance.
7. Medical.
8. Reporting of casualties.
9. Reinforcements.
10. Accounting instructions.
11. Courts martial.
12. Maps.
13. Intercommunication.
14. Security intelligence arrangements.
15. Signal security.
16. Relationship between British troops and local military authorities.
17. Special fittings to respirators.
18. Recognition of aircraft.

APPENDICES

- Appendix "A" Composition of Stratford
"B" Provisional ration scale
"C" Signal instructions
"D" Special scale of explosives

STRATFORD PLAN AND FIRST MAINTENANCE PROJECT

1. *General*—This plan is for the despatch of small forces of infantry engineers and attached troops to 512, 547, and 548.

2. *Secrecy*—The most stringent precautions will be taken to ensure the secrecy of the move required to put this plan into operation. In order to achieve this end, the plan will never be referred to except by its code name, and until embarkation has been completed, the destination of the force will not be disclosed to anyone.

* * * * *

6. *Maintenance*—Maintenance from the United Kingdom will be by weekly or 10-day sailings in normal trade shipping from

the United Kingdom to 548, and thence by local ships. It is possible that a major British force will be operating from 512 in which case this force will be responsible for the maintenance of Stratford.

* * * * *

8. *Reporting of casualties*

(a) * * *

(b) In the initial stages, casualties will be reported from 512 and 547 to Force H. Q. (548). The latter will consolidate and transmit deaths of officers and other ranks by W-T [Wireless Transmitter], if traffic facilities permit.

* * * * *

13. *Intercommunication*

(a) * * *

(b) *Between Force H. Q., and the War Office.* There is no direct cable line from 512, 547, or 548. Communications between Force H. Q. and the War Office will therefore be mainly by W-T from 548. In an emergency the naval control service officer on the Consular staff will provide a channel of communication.

* * * * *

15. *Signal security*

* * * * *

(d) The telegraphic address of the force is—

STRATFORCE for 548
CONVERT for 547
OUTLOOK for 512

These names will be registered with postal authorities on arrival overseas. All telegrams from U. K. will be sent to the force c/o War Office until further instructions are issued.

* * * * *

Amendment No. 1

General.—Add at end of paragraph 1—

“In the event of the forces at 547 having to withdraw they will go to 548.

“Commander 547 will investigate on the spot to discover what shipping could be made available to carry out the move.

He will make this the subject of an early report to the War Office through Force H. Q.

"The provision of escorts will be arranged by the War Office."

G.S. (P).

4th April 1940.

APPENDIX "A"
COMPOSITION OF STRATFORD

Destination	Unit				
548	{ Infantry Brigade H. Q. (Force H. Q's.) 4 Lincolns [Lincolnshire] ¼ K.O.Y.L.I. [Kings Own Yorkshire Light Infantry] Sec. 55 Fd. Coy., R.E. [Royal Engineers] Brigade Sig. Sec. (49 Div. Sigs) (less detachments).				
		547	{ 148 Infantry Brigade H. Q. ⅕ Leicesters. 8 Foresters 55 Fd., Coy. (less 1 Sec.) Detachment Sigs.		
				512	{ Hallams [Hallamshire] Detachment Sigs. Details.

* * * * *

April 7th, 1940

8-SF-SY-13

SECRET

8TH BATTN. THE SHERWOOD FORESTERS
OPERATION ORDERS

1. *General Policy.*—The intention of the Stratford Forces is to effect a landing at 512, 547, and 548 and to occupy these ports with a view to denying them to Germany.

It is anticipated that our assistance will be welcomed by the inhabitants but the decision as to whether or not to land will rest with the Royal Navy.

2. *Intention.*—It is the intention of 547 to effect a landing as directed by the Royal Navy and to place the following in a state of defence

- (a) The harbour and quayside.
- (b) The aerodrome at Sola.
- (c) The seaplane station 1½ miles north of Sola.

9. One-fifth Leicesters are reserve Bn. to the force and are to occupy the Port of Stavanger.

* * * * *

13. *Intercommunication.*—Two signallers with bicycles to each company.

Adjutant

Aboard *H.M.S. Glasgow*

* * * * *

TRANSLATION OF DOCUMENT NOKW-3520
PROSECUTION REBUTTAL EXHIBIT 106

AFFIDAVIT OF THEODOR KRANCKE, 16 JUNE 1948*

I, Theodore Krancke, swear, state, and depose:

I was born on 30 March 1893. My last rank was Vice Admiral. My present address is Vogelsang-Gruenholz, District Eckernfoerde, Castle Gruenholz.

By the end of January 1940 I received by teletype the order to report to the High Command of the Armed Forces for temporary duty. I reported on 30 January at 9 o'clock to General Keitel. According to my recollection it is certain that Jodl, Colonel Knaus of the Air Force, and Lt. Col. von Tippelskirch of the General Staff were present. It is possible that either Knaus or Tippelskirch arrived later in the course of the day.

We were told by Keitel that it was our task to prepare the operational plans for the contingency of an occupation of Norway. The staff was to work as a special staff in the Department National Defense, in association with the Department National Defense. When we needed anything, material, data, air reconnaissance, or when special questions came up we had to request all this material from the Department National Defense which then placed it at our disposal. We also turned to Warlimont and Jodl. However, I spoke very little with Jodl. With Warlimont I discussed questions such as, for instance, the procurement of maps; he asked me occasionally how far we had progressed with our work, when we expected to be ready with the work, and similar things. When new intelligence reports had arrived, the Department National Defense received them and passed them on to us. I did not speak with Halder; that was done by Tippelskirch. Except for three brief memos which had been submitted by the three commanders in chief of the armed forces upon the request

* For affidavit by Theodor Krancke on behalf of the defense, see Schniewind Document SKL 301, Schniewind Exhibit 55, immediately following.

of the High Command of the Armed Forces in December 1939, concerning the possibility of a Norway occupation, we found no material for a Norway operation at the time when we started our activities.

In the middle of February 1940, the formation of an army command was ordered by the supreme leaders. It assumed its activities by the end of February 1940. Even prior to the arrival of the army staff in Berlin, the Fuehrer demanded the immediate submission of the operational plans. Consequently, von Falkenhorst submitted to Hitler the operational plan which he had just finished and which had not yet met with his approval. This plan was approved. In the subsequent weeks, the Staff Falkenhorst prepared the details for the operation. I was chief of staff for the navy with the Staff Falkenhorst. As the operational plan was handled by the armed forces, we were dependent on the Department National Defense in the High Command of the Armed Forces with reference to all questions which were not directly decided by von Falkenhorst and the Fuehrer. Von Falkenhorst was directly subordinated to Hitler. All matters which concerned Jodl with the High Command of the Armed Forces were handled by Warlimont's department. Von Falkenhorst said, for instance: I need for this and that purpose, mountain troops, or I need so and so many batteries, 15 cm. guns, which the troops picked for the operation did not have. It was the task of the High Command of the Armed Forces, Department National Defense to determine from where these troops or the material were to be taken. Also, in the case of differences between the various branches of the armed forces, the Department National Defense was called upon for its decision. Also there was occasionally a suggestion from Hitler, Jodl, or the Department of National Defense which had to be taken into account for the operational preparations.

I have read the above statement consisting of two pages in the German language. Opportunity was given to me to make corrections. I have made the above statement without promise of reward.

[Signed] THEODOR KRANCKE

TRANSLATION OF DOCUMENT SCHNIEWIND SKL 301
SCHNIEWIND DEFENSE EXHIBIT 55

AFFIDAVIT OF THEODOR KRANCKE, 28 MARCH 1948

AFFIDAVIT

I, Theodor Krancke, born 30 March 1893 at Magdeburg, residing in Vogelsang-Gruenerholz, District Eckernfoerde, have been

warned that I render myself liable to punishment if I make a false affidavit. I declare under oath, that my following statement is the truth, and that it was made to be submitted as evidence before Military Tribunal V, Nuernberg, Germany.

Regarding the preliminary history of the occupation of Norway I am able to state the following:

At the outset of the war I was in command of the cruiser "Admiral Scheer." At the beginning of 1940, I was ordered to the High Command of the Armed Forces for temporary duty. On Monday 30 January, I reported to the Chief of the OKW General Keitel, to take up my duties. A special staff was formed consisting of Colonel of the Air Force Knaus, Lieutenant Colonel of the General Staff von Tippelskirch, and myself. This special staff was briefed in its duties by the Chief of the OKW. These consisted of the preparation of an operational plan for the occupation of Norway should it perchance become exigent.

We were informed that intelligence had been received to the effect that the enemy was making preparations for such an operation, and that the enemy had already established liaison with the Norwegian Government. Even if the maintenance of a very strict neutrality on the part of Norway was the best thing for Germany, the occupation of Norway by the enemy would, on the other hand, constitute a severe threat to the Swedish ore transportation which was so urgent for the war, and beyond that, a decisive danger to the Reich defense. For that reason the occupation of Norway by German forces would have to be reckoned with as a prospect, if the reports to date about the parallel intentions of the enemy should increase. In this event it would be of paramount importance in any case to forestall the enemy to it. This would succeed only if the preliminary work remained absolutely secret. For, with due regard to our considerable inferiority on the sea, a complete surprise of the enemy would have to be a prerequisite for success. No one, with the exception of a precisely defined number of officers of the OKW and the three High Commands, was to know anything about this kind of work. We, therefore, formed a special staff within the framework of the Department National Defense to which we were to address ourselves in all problems.

When we assumed our task, we had at our disposal only one memorandum from each of the High Commands. Of these only the one worked out in the Naval High Command was pertinent and usable. Maps were not available with the exception of hydrographic charts. Maps were first produced toward the end of February 1940, from travel guides, road and railway maps,

tourist maps, and other material, which had come in in the meantime.

During our preliminary work we constantly received further intelligence reports through Department National Defense, which showed that British naval officers in civilian dress were busily occupied in the British consulates in the seaports on the western coast of Norway, and that French general staff officers were also traveling about in Norway.

Still greater importance was attached to these reports when the "Altmark Case," which took place on 16 February 1940, showed in a glaring manner that Norway was not in the position to safeguard its neutrality seriously, nor perhaps willing to do so. The political leadership, hereafter, came to the conviction that an operation of its own would have to be necessary after all now and ordered on 21 February, the establishment of an army command under the leadership of von Falkenhorst, Lieutenant General of the Infantry, for the occupation of Norway.

The general operational plan which we completed toward the end of February was presented by General von Falkenhorst to the Fuehrer and was approved as the basis for further elaboration which had to be worked out by a considerably more comprehensive working staff. I myself remained with the Special Staff as Chief of Staff (navy) under General von Falkenhorst.

During my assignment with the special staff, I maintained continuous contact with the Naval War Staff. The Naval War Staff, like myself, was aware of the fact that this operation would signify the complete commitment of the navy. In view of the superiority of the British naval forces this operation would be bound to turn into a complete failure and to result in a loss of all units put into action, unless it were possible to keep the preparations secret to the last and to safeguard the element of surprise. This maintenance of secrecy, however, was extraordinarily endangered, above all in the last stage of the preparations and due to the necessarily ever widening circle of participants. The view was generally shared, that this commitment of the navy was justified only if a threatened seizure of Norway by the enemy inevitably forced this measure. The decision regarding this matter would have to be made by the political leadership, which alone surveyed all the prerequisites, and which also had to bear the responsibility for the large-scale commitment.

I no longer recall the individual reports which came in to us, but I do know that they confirmed and supplemented the earlier reports. After the conclusion of the Russo-Finnish war, the danger of a direct intervention by the Western Powers in Norway

seemed to be banished, but only a few days later again alarming reports arrived.

In the course of the elaboration of the details it was discovered that the air force did not believe itself capable of fulfilling the tasks assigned to it, without air bases in Jutland. In any case a special staff was formed for the anticipated peaceful occupation of Denmark, in whose tasks I participated only insofar as naval tasks were concerned. In any event, right at the very outset there was never any mention of an occupation of Denmark. On the contrary, only after von Falkenhorst took over the supervision of the preliminary tasks, was it considered, following suggestions from the air force.

Toward the end of March 1940, the orders were ready in essence and all preparations for the starting of the operation had been completed. Whether and when, the order for the execution would be given, was not known by the staff, because this was a question of a decision on the part of the political leadership. In any event, the ice conditions in the Baltic Sea and in the Baltic Sea approaches opposed an early starting of the operations. On the other hand, the enterprise could be carried out only up to the middle of April, in view of the lengthening of the days in northern and central Norway, if the element of surprise—the prerequisite for a successful operation—was to succeed. After further reports indicated intensified enemy intentions on Norway at the beginning of April, the political leadership finally ordered 9 April to be X-day.

That the reports regarding enemy intentions were accurate is shown by the following:

1. The counteroperation with mine laying in Norwegian territorial waters starting 7 April, had already begun. The British naval forces, which had troops aboard just as our naval forces had, sighted with their air reconnaissance on 7 April the German task force (“Gneisenau”, “Scharnhorst”, “Hipper”, and 14 destroyers), and turned about in order to unload the troops and then to meet the German task force. Thus, on 9 April in the forenoon, they appeared again before the Norwegian west coast, a few hours after our landing. These facts were documented by the operational orders captured in Lillehammer at an English brigade staff (Operation Stratforth [Stratford]), and, as far as I know, by prisoner of war statements.

2. The English countermeasures were only rendered possible so swiftly because ships and troops were ready (landing of British troops in Andalsnes, Namsos); attack of the British destroyers on Narvik early on 10 April; the alerting of battle cruisers off the Lofoten Islands on 9 April in the morning, the

occupation of the Skagerrak by numerous enemy submarines on 8 April.

3. It was ascertained, that the Norwegian coastal batteries had received orders not to fire on British warships, to do so, however, on German ones.

4. German steamers, camouflaged as colliers and with supplies on board, were unable to get pilots in Haugesund, because, as was established by the German Deputy Consul Engel in Haugesund, these pilots were already in England at the disposal of British ships.

5. The alerting transports and troops including French contingents, of which we had learned through reports from agents, I found confirmed in the book of the English General de Lasigny,¹ the Chief of Staff of Field Marshal Montgomery. At the start of the war, this general was secretary to the Minister of War [sic], and he describes in his book the preparation for the occupation of the ports on the Norwegian west coast. He also mentions negotiations with the Norwegian Government, which failed however. According to this, too, these reports were true.

Whether further evidence was found in Norway I don't know, since on 10 April 1940 I was transferred to Admiral Norway as Chief of Staff and reassumed my command as commanding officer of the "Admiral Scheer," on 10 June.

[Signed] THEODOR KRANCKE

EXTRACTS FROM THE TESTIMONY OF DEFENDANT SCHNIEWIND²
DIRECT EXAMINATION

* * * * *

DR. MECKEL (counsel for defendant Schniewind): I will now refer to the Norwegian campaign. How did the preparations and plannings for the occupation of Norway come about? When did you hear of it for the first time?

DEFENDANT SCHNIEWIND: The situation in the Scandinavian area had always been followed by us with particular vigilance from the very outset of the war because the Scandinavian area was of great importance to us, to our economy and our war industries, because from Sweden we got most of the ores which

¹ Name used in original affidavit apparently in error. Affiant is referring to "Operation Victory," by Major-General Sir Francis de Guingand (London: Hodder and Stoughton, Ltd., January, 1947.) General de Guigand was Military Assistant to the Secretary for War in His Majesty's Government, 1939-1941; Chief of Staff, Eighth (British) Army, 1942-1943; Chief of Staff, 21st Army Group, 1944-1945.

² Complete testimony is recorded in mimeographed transcript, 26-27 May 1948, pp. 4791-4957.

we needed. These ores were shipped during the summer months to Germany via the Baltic Sea; in the winter months when the Gulf of Bothnia was frozen, they were shipped via Narvik over the North Sea route. This importance of Scandinavia for Germany's conduct of the war was, of course, well known in the camp of our opponents. It was a matter of course that we in the Naval War Staff were very suspicious and paid great attention to the fact that these communications to Scandinavia were preserved and were not disturbed.

The first anxieties in this respect already cropped up as early as the first month of the war, when we learned that special activity of the enemy secret service was to be noted in Norway. Special reasons for misgivings were not furnished by those reports as yet, but at any rate they provided a motive for increased vigilance.

Q. What was the reason for the Naval War Staff to deal with the case of Norway, in theory?

A. In the first days of October, Admiral Raeder gave me a letter from Admiral Carls, and at the same time the mission to investigate the military angles of the problems which had been touched upon in this letter. I still recall the general tenor of this letter. Admiral Carls had apparently received similar warnings about Norway. In his letter he described the dangers which might result if enemy action in the Scandinavian area materialized. A further trend of thought contained in this letter was that, under certain circumstances, we might gain possession of certain bases in Norway with Russian help or Russian pressure, because if we possessed such bases in Norway, then our opponent would be unable to obtain possession of Norway. Admiral Raeder gave me the mission to study this question in the Naval War Staff as to whether, in fact, the possession of any bases in Norway would be of military profit to us, and this examination took place in the Naval War Staff.

Q. Were these the considerations which you found in the record of the War Diary of 3 October? I refer to the document which the prosecution submitted as C-122, Prosecution Exhibit 1117.* Do you recall this entry?

A. Of course I no longer recalled the entry as such, but when I saw it again here, all the connections became clear to me once again. This excerpt from the War Diary says, that Admiral Raeder, the Chief of the Naval War Staff, thought it necessary to familiarize Hitler as soon as possible with the considerations about and/or the possibility of expanding the basis of operations

* Document reproduced previously in this section.

in the Scandinavian, the Norwegian area. This is followed by certain questions, for which illustrations are given, as to what places in Norway might be considered as strong points, and so forth.

Q. Admiral, that is quite enough. It is all contained in the document. Now, how do you account for the fact that in this entry the anxiety that Britain might intervene in Norway is not raised, but merely the question of bases is touched upon?

A. In the War Diary, of course, the topic is only treated in as far as Admiral Raeder had given a specific order. That is the military angle of this problem.

Q. But you recall with certainty that at this time the premise started from was, that Britain might possibly gain a footing in the area. That is what you stated before, wasn't it?

A. There is no doubt about it. This anxiety about Britain was the mainspring of everything.

Q. Your Honors, in this connection I will submit evidence within the course of my presentation, the affidavit of the former Captain Assmann, who at that time compiled the War Diary of the Naval War Staff and was present at this conference. It is Document SKL 302 which I will offer at a later stage.

Admiral, you said before that from other sources, too, you had received information about an imminent invasion of Norway, from agents. Now, from what sources did you derive this information and from whom?

A. In addition to the sources which I named—the direct reports by agents, letter of Admiral Carls—we also received warnings which were channeled to us from Admiral Canaris' Foreign Counterintelligence Office; and Admiral Raeder was particularly cautious here, because the same warnings were received from two different sources.

Q. Now, what was the attitude of the Naval War Staff regarding this idea? Was the occupation of Norway or the securing of bases in Norway regarded as advantageous or was it regarded as disadvantageous? What was their position?

A. The view of the Naval War Staff was to this effect: of course, through a seizing of certain bases in Norway certain profits might be derived, but in the first place these profits, looking at them from the military point of view, were rather problematical. Other considerations, however, led to the fact that an action in Norway was not considered by us as being merely advantageous, but it might also imply grave dangers,

because if we were entrenched in Norway then it was a matter of course that Norway was no longer neutral for our enemy. Norway would become a theater of war, and in view of the superiority of the British naval forces, it was to be expected that the trade traffic along the Norwegian coast would very soon be stopped if we were lodged in Norway.

Therefore, the Naval War Staff arrived at the final result that the best solution would be if everything remained as it was at the outbreak of war, that is, Norway was to remain neutral and this neutrality, of course, had to be strictly respected by both parties, making due allowance for the rules of neutrality which had been established by Norway.

Q. Will you briefly tell us what those Norwegian rules for neutrality were?

A. The Norwegian rules for neutrality were in conformity with the customary rules for neutrality for naval warfare. Largely speaking, and in the angles which are of interest here, it provided that both parties were to be allowed to call on trade traffic in the territorial waters of Norway; the peaceful passage through Norwegian territorial waters was to be open to warships and to auxiliary war vessels and to ships flying the Reichsdienstflagge. Radio communication was prohibited in Norwegian territorial waters.

Q. May I interrupt you. I think there was a misunderstanding here. You said ships flying the Reichsdienstflagge, but the translation, "auxiliary vessels," was adequate and already covered this point. Will you please explain what the term, ships flying the Reichsdienstflagge connotes?

A. I believe that the term warship is known. In addition to warships every nation in war also has former merchant shipping which was reconverted into warshipping, and among them were for instance auxiliary cruisers. In addition, every navy also had for instance certain supply vessels which did not fly the war ensign but a special flag which designated their nationality. I don't know how matters were handled in the American Navy but I can illustrate it by citing the British Navy. The British Navy war flag is the white ensign and the British commercial flag is the red ensign, and the Reichsdienstflagge of England is the blue ensign, this, the service emblem of the British ships, and thus, we also had a service emblem analogous to the British blue ensign, that is the Reichsdienstflagge.

Q. Can you name a ship which played a part in the Norwegian problem which would come under that category?

A. I thought it was necessary to clarify this question quite unequivocally. It was the vessel Altmark which in the middle of February was raided by British warships in Norwegian territorial waters bore the German Reich service ensign, the Reichsdienstflagge.

Q. You have just described the position taken by the Naval War Staff regarding the idea of Admiral Carls concerning a countermeasure in Norway. You have made quite clear the position of the Naval War Staff. Now what happened afterwards?

A. The Naval War Staff or the Planning Office, by order of the Chief of the Naval War Staff, sent a naval attaché to our legation in Oslo so that from there he might be in a position to observe clearly the development of the situation and convey the news of it to us.

Q. Who was this naval attaché?

A. Lieutenant Commander Schreiber was the naval attaché.

Q. Your Honor, in the scope of my presentation I will submit an affidavit by this naval attaché. Therefore, I will not go into details at this stage. The opinion of the Naval War Staff was submitted to the Chief of the Naval War Staff and what steps did he take?

A. The Commander in Chief of the German Navy still thought this matter important enough to have it reported to Hitler; because this was not merely a military question or a question of war industry and armament, but if ever one had to expect the contingency of Britain lodging herself in Norway then much graver results might ensue. Britain in Norway meant that the whole country would be used and was available as a basis for the British conduct of war; that the routes through the Kattegat and the Skageraak were blocked to us, and one might even consider it quite possible that the other part of the Scandinavian peninsula, that is Sweden, might also at some stage pass into the British orbit. It might either be that the ore supply from the eastern coast of Sweden would be denied to us, or that Sweden might join the Western Powers. This meant the revival of war in the Baltic Sea, but in a much more aggravated manner than we had had it at the outbreak of war, and in the view of the Chief of the Naval War Staff this might mean losing the war. For that reason Admiral Raeder thought it necessary to inform the Fuehrer about these connections.

Q. Were you present when this oral report was made?

A. No, the report was made by Admiral Raeder alone.

Q. Do you know the substance of this oral report?

A. Admiral Raeder—he informed me later about this—during his oral report closely adhered to the memorandum of the Naval War Staff which had been made upon his order regarding these matters and which culminated in the conclusion that they were dangerous, and that military advantages would be slight; that even if we were in Norway one could not predict with 100 percent certainty that trade communications with Norway could be sustained.

DR. MECKEL: Your Honor, I will submit to the Tribunal in this connection, the Documents Schniewind SKL 308, Schniewind Ex. 49;* and Schniewind SKL 303, Schniewind Ex. 47, one is a War Diary entry about these events. The second an affidavit of the then naval adjutant to Hitler, Commander von Puttkamer.

Witness, did Admiral Raeder tell you about Hitler's reaction and his view on these questions?

A. Yes, on the next day he informed me and the experts of the Naval War Staff about it during the situation conference. He said that Hitler had been much impressed, but that the subject matter had been completely strange to him; a decision had not been made. Hitler had stated that he would have to think this matter over.

Q. Were these questions further dealt with in the Naval War Staff or was there an interruption in dealing with these matters?

A. In the Naval War Staff subsequently nothing happened at first, and this matter remained in abeyance in as much as nothing was done on our part; but new warnings continuously reached us from the agents.

Q. You already said they came via agents. Were there other sources too?

A. Yes, from the naval attache we had in Oslo, and to whom I have already referred, and a revival of this whole problem occurred in the first half of December when the Norwegian politician Quisling appeared on the scene.

Q. When was that?

A. That must have been in the first third—about 10 December.

Q. Were you present during the conversations of Quisling with Admiral Raeder?

A. No, I was not present but I learned that Quisling had been introduced to Admiral Raeder by Rosenberg, and that Quisling in talking to Admiral Raeder afterwards gave a similar dan-

* Ibid.

gerous account of the position such as we had previously received as the result of the news from agents.

Q. Did you ever come into contact with Quisling?

A. Not at that time.

Q. At another point of time?

A. In the summer of 1932, I was once in Oslo on board the flagship as an expert of the Fleet Staff, and at that time the officers of this ship were his guests because he was the War Minister of Norway at the time.

Q. In the documents a certain Hagelin is also mentioned. Did you hear of him?

A. No, I think I only learned his name here in connection with the trials. I have never seen him nor spoken to him.

(Recess)

Q. Admiral, before the recess we talked about Quisling's visit to Admiral Raeder. In the indictment it is asserted that you were in touch with and kept in touch with Quisling. What can you tell us about that?

A. I neither had personal contact, nor did I keep up such contact with Quisling.

Q. The prosecution further asserts that at that time you were in very close touch with General Warlimont of the OKW, is that correct?

A. As far as I can recollect, I never had any official or private contact with General Warlimont. That not only refers to this particular question—I had no contact with him at all.

Q. Do you know what Admiral Raeder initiated after Quisling's visit?

A. Raeder regarded Quisling's news as being significant enough to necessitate a contact between Quisling and Hitler, so that Quisling could tell Hitler personally his ideas and worries.

Q. When did that happen?

A. That must have been on either 11, 12, or 13 December 1939; the meeting must have taken place on one of these days.

Q. Do you know what Raeder's view was of Quisling and his statements?

A. The information which Quisling brought to us was quite consistent with that from other information sources. It was significant, of course, and interesting that now, completely

separated from all former channels of information, a Norwegian politician transmitted the same type of news. I know, however, that Admiral Raeder told Hitler at the time, and this was before Quisling visited him, that one had to be rather careful in evaluating Quisling's statements and news. Quisling, after all, was a politician and a Norwegian party functionary. One could never be quite sure whether or not he wanted to further personal or party aims with such information.

Q. On that occasion did Raeder once again talk about the whole problem of Norway to Hitler?

A. Yes. He once again summarized the whole problem and spoke to Hitler about it. He talked very clearly and objectively about the advantages and the dangers.

Q. What dangers?

A. Dangers in as much that in the event of the seizure or the occupying of Norway by England, our situation would become extremely dangerous. For the rest, that even if we occupied certain bases the situation need not necessarily be satisfactory. The situation after all was this: If the British were in Norway, it was certain that we would not get any ore from Norway. Now, if we were in Norway it would mean that for a certain period, either a longer or shorter period, we would possibly get some ore. If neither of the two parties was in Norway, and, if Norway were to remain neutral, then it was quite certain that we would get ore.

Q. Do you know whether, after Raeder's report in December, Hitler took any steps?

A. No. Hitler at that time decided to take charge of the whole problem of Norway himself and to deal with all questions connected with this problem with a special working staff which was to be subordinated to him personally.

Q. Did you in the Naval War Staff gain knowledge of this work which was to be carried out by this special staff?

A. We did not receive any current information; for quite some time we didn't know anything at all. I know that at the end of 1939, and the beginning of 1940, on Raeder's request, once again an exhaustive study was made about the whole Norwegian problem; this study was transmitted to the OKW and it possibly ended up in this working staff which was especially created for this purpose.

Q. But you cannot give any detailed information about the work that went on in the OKW?

A. No. I am not informed about that.

Q. It's asserted in the indictment that in the Naval War Staff a working staff was also created, under your direction. What can you tell us about that?

A. That is not correct. The study which I mentioned just now was dealt with by the responsible experts in the normal course of business routine. There was no special working staff for Norwegian matters.

Q. According to the available information, the Study North of the OKW was received by your office on 10 January 1940. What considerations were expressed in this study?

A. This study, as far as I can say today in retrospect, was an exposition of the whole Norwegian problem, approximately along the same lines as it was regarded by the Naval War Staff. Dangers, advantages and disadvantages of an occupation were discussed.

Q. Now, what developments occurred later?

A. Towards the middle or the end of January, Hitler must have created in the OKW, and directly subordinate to him, the Working Staff Norway or North, whatever it was called; this working staff consisted of members of all branches of the services; a naval officer was also a member of the staff. That was Captain Krancke.

Q. Mr. President, I am going to submit to the Tribunal an affidavit executed by naval Captain Krancke, Document Schniewind SKL 301, Schniewind Exhibit 55.*

Admiral, was any other work carried out in the Naval War Staff that concerned the Norwegian plans or any plans concerned with Norway?

A. In the Naval War Staff nothing further was initiated or dealt with in this direction.

Q. Did you have any contact with Captain Krancke?

A. A connection between the OKW Norwegian Staff and the Naval War Staff was of course present because of Capt. Krancke being the liaison; in order to carry out his task he needed certain information which the Naval War Staff could give him, for instance, if an operation resulted, how many ships would be available, what ships, how many soldiers could be accommodated, etc.

* Reproduced previously in this section. Krancke also executed an affidavit for the prosecution. See Document NOKW-3520, Pros. Rebuttal Ex. 106, also reproduced previously in this section.

Q. On whose initiative was the Norwegian matter expedited?

A. I have no exhaustive knowledge of this, but according to all the impressions which Captain Krancke transmitted at the time, apparently Hitler was the instigating factor in the Norwegian matter after he realized the significance of the Norwegian problem.

Q. Did Hitler later on consult Admiral Raeder in any way?

A. Yes. As far as I know, Admiral Raeder visited Hitler several times during the subsequent period.

Q. Were you present during these discussions?

A. No, I wasn't.

Q. What opinion did Raeder express to Hitler during these discussions?

A. For all practical purposes it was always the same opinion which Raeder expressed to Hitler. He wanted to prevent Hitler being too one-sidedly optimistic in reference to this whole matter.

* * * * *

Q. In the meantime, did any events occur which might indicate either a violation of neutrality on the part of Norway or an imminent intervention on the part of England?

A. Both occurred. More and more news arrived concerning activities of French and British agents in Norway, and, during the whole of the time almost since the beginning of the war, or at any rate since the ore traffic to Germany had to be channeled via Narvik—that must have been since approximately the middle of November 1939—there was a constant series of British transgressions into Norwegian sovereign waters, directed against German shipping. One thus gained the impression that on the part of the Norwegians not sufficient energetic action was put up against this British behavior. This culminated in the incident of the tanker Altmark which has just been mentioned.

Q. Will you briefly describe for us the Altmark incident?

A. This tanker Altmark was an auxiliary vessel of the pocket battleship Admiral Graf Spee. When the Graf Spee was sunk in the southern Atlantic in the middle of December, the tanker Altmark was called back to Germany. Taking the northern route between Iceland and Denmark, the ship succeeded in reaching the Arctic Sea and then the Norwegian territorial waters near Trondheim.

Q. Could you give us the route again?

A. The ship succeeded in coming from the South Atlantic, passing into the North Atlantic between Iceland and Greenland, and reaching the Norwegian coast near Trondheim, where she was in Norwegian territorial waters. In the Norwegian territorial waters she directed her course towards the south; the ship bore the Reichsdienstflagge, (equivalent of the British Blue Ensign flown by auxiliary naval vessels). Apparently some news about the passage of this ship was transmitted to England; that might very easily have happened through the pilots who boarded the ship, with the result that when the ship left the Norwegian territorial waters near Stavanger, south of Bergen, constant touch was kept with this tanker Altmark, first of all by planes and later by British destroyers. These followed the tanker, first of all keeping outside the territorial waters.

Q. May I interrupt. The tanker was outside the territorial waters, or where?

A. The tanker moved within the territorial waters, but the British destroyers followed the course of the tanker moving, for the time being, outside the territorial waters. During the further trip south, the British destroyers clearly approached the tanker, and, undisturbed by the presence of two small Norwegian torpedo boats, attempted to press the tanker Altmark outside the Norwegian territorial waters. In that situation the tanker Altmark took refuge in the Joessing Fjord on the southern coast of Norway. Again, without taking notice of the Norwegian torpedo boats, one of the British destroyers followed the tanker Altmark into the Fjord, went alongside, and sent armed crews on board the tanker. Members of the German civilian crew went overboard and, I may say in this connection that the Fjord was frozen and the members of the crew who went overboard tried to escape over the ice. They were shot at. Seven of the members of the crew who were trying to escape were killed. After the British destroyer had liberated the prisoners who were on board the tanker Altmark, (they originated from the Graf Spee battleship) the British destroyer left. There can be no question that this was a plain breach of neutrality.

Q. And when did this take place?

A. That was the middle of February 1940.

Q. What was the attitude of the Norwegian Government to this incident?

A. As a whole, I believe the Norwegian Government maintained the same attitude as we did, and a strong protest was lodged on the part of the Norwegian Government to England.

* * * * *

Q. Do you know what impression our diplomatic representatives gained in Oslo about the resistance of the Norwegian Government?

A. Our representatives in Oslo expressed their view as follows: Norway would not be capable or, at any rate, not willing to maintain its neutrality.

Q. Could you repeat the last sentence?

A. Our representatives in Oslo expressed their opinion to the effect that the Norwegian Government apparently was not capable or willing effectively to protect and defend Norway's neutrality.

Q. Thereafter did you gain knowledge of any other breaches of neutrality?

A. Around the period of time which I mentioned earlier, from the middle of November until February and March of the next year, there was a series of breaches of neutrality.

* * * * *

Q. When was the preparatory work of the so-called Working Staff North in the OKW transformed into a concrete order?

A. In the first days of March the Working Staff North distributed its first operational directive—I believe that is what it was called.

Q. Did this directive contain—I beg your pardon. Another question first. What was this directive called?

A. I believe in that directive it was expressed for the first time in writing that, "Weser Exercise" was to be the code name of an operation directed against Scandinavia, if such an operation should come about.

Q. Did that directive contain an introductory reasoning?

A. Here again there was a preamble, a notation, approximately to the effect that the situation might necessitate certain measures to be taken in Scandinavia.

Q. Was this directive already an order for attack, or did it just mention preparations, or what was it?

A. It was not yet an order. It was merely a preparatory expression of certain measures which would be taken.

Q. What were the missions of the navy in this directive?

A. The navy had been assigned the task, according to this directive, to secure the entry into the intended landing localities

and to make sure that the necessary occupation troops would be transported to these areas.

Q. How did the navy regard the execution of this mission?

A. The navy was of the opinion that such an operation directed towards the north, particularly towards Trondheim and Narvik would be connected with considerable risks. The long flank march very near the British coast could, in view of the strength of the British naval power, easily lead to serious setbacks.

Q. In this particular directive of the OKW there is some mention of the occupation of Denmark. Now, from whom did that idea originate?

A. The Naval War Staff was very surprised at the inclusion of the occupation of Denmark in the order. The necessity of such an action could not be understood by the Naval War Staff and also by Admiral Raeder, at least, not in accordance with the original ideas. Later on I learned that the inclusion of an occupation of Denmark into these plans was to be traced back to requests of the air force. This branch of the service held the opinion that bases in Denmark were essential if the operation Norway had to be carried out.

Q. After these directives were received, did the Naval War Staff voice any misgivings against the execution of this plan, and, if so, for what reason?

A. The opinions within the Naval War Staff were from the very beginning until the end always somewhat divided. This was the case because many of the responsible experts were of the opinion that the risks of such a commitment were not in a proper proportion to the prospects of success.

Q. Admiral, I will now pass to you an excerpt from the War Diary of the Naval War Staff, that is, Document NOKW-2265, Prosecution Exhibit 1124.* These are entries about a situation conference with the Chief of the Naval War Staff, and the dates are 2 and 4 March 1940. What is revealed in these entries?

A. The substance of this entry is that apparently the Naval War Staff or the man who initiated the entry, held the view that all military problems and worries, etc., had to take second place, and that from then on large scale political and strategic matters were at stake. The misgivings which had been voiced up until then, particularly with respect to the military risk, would now have to recede into the background.

Q. Who was commissioned by Hitler to carry out the Norwegian operation?

* Document reproduced in this section.

A. The man in charge of the Working Staff was General von Falkenhorst. He was also to be in charge of the operation if it became necessary.

Q. Did you receive the operational order from von Falkenhorst?

A. Yes, it came into our possession.

Q. When?

A. Approximately on 5 March.

Q. What did the Naval War Staff initiate in accordance with the Fuehrer directive?

A. On the basis of this Fuehrer directive and of this operational order "Weser Exercise," the Naval War Staff gave the corresponding directives to the subordinate agencies of the navy.

Q. Did the Naval War Staff receive any information from radio reconnaissance at that time, and if so, what type of information?

A. Radio reconnaissance was a very good source of information, and it was particularly valuable because it rendered a very objective confirmation of news which had originated from other sources, with regard to which one might have held some doubts in one or the other case. This radio monitoring service, particularly in the Norwegian matter, confirmed that some kind of the movements from the British coast, northern Scottish ports, were being planned and prepared.

Q. Do you happen to know of any designations of these plans from this radio service?

A. Yes, particularly the British code names "Avon Force" and "Stratford" have remained in my memory. Those were the code names of the forces which were to go to Norway, and the subtitles "Stratford A, B, C, D" designated the objectives which were to be reached by the different groups.

Q. Where was this information collected that came in about such matters?

A. Finally after having passed through certain agencies which had to be informed, they were collected as enclosures to the War Diary.

Q. Now, this particular fact, the "Stratford" and "Avon Force" plans which you just mentioned, was that later confirmed in any other manner?

A. After the execution of the Norwegian operation had started, and after skirmishes had taken place with the British troops, which had already landed, we found heaps of documents in the

possession of these troops which gave a clear confirmation of the fact that the information transmitted by agents, as well as the radio information had been correct with reference to all the misgivings which the Naval War Staff had had.

Q. Did you yourself see these captured orders which you have just mentioned?

A. Yes, I saw them myself.

DR. MECKEL: If the Tribunal please, I shall submit these captured orders in evidence, as well as an excerpt from the War Diary which makes reference to these captured orders. (*Schniewind Skl 324, Schniewind Ex. 65.*)*

Now, to the best of your knowledge of the situation, what was the situation at the time when the order for the occupation of Norway was issued on 9 April—did you think that an intervention on the part of England was imminent?

A. Here I have to make a rather lengthy statement because immediately before the occupation of Norway the situation varied. Until the first half of the month of March, approximately the 5th or the 10th of March, the picture had been completely clear to us. We knew that intentions to land would very shortly be realized, and according to the picture of the situation which we had, these intentions were to be carried out under the pretext of aid for Finland.

Finland at that time was still engaged in a war with Russia. Approximately around the 10th or 15th of March an armistice was concluded between Finland and Russia, and that meant that this pretext could no longer be used for a landing in Norway by the British or by the French. Prior to this time, the tension had already become so acute that Hitler urged the immediate carrying-out of the Norwegian operation. This, however, had somewhat abated, but already during the last ten days of March the activity of the enemy increased again. The picture gained by the radio monitoring service showed alarming proportions, and rendered the impression that an operation on the part of the British and French against Norway was imminent. The activity of agents had, of course, never abated throughout the whole month of March.

Q. What measures of the enemy became externally apparent and supplemented this picture?

A. During the first days of March a mine laying operation by the British took place in Norwegian territorial waters.

Q. I beg your pardon, when was that?

* Ibid.

A. During the first days of April.

Q. Well, I believe you said March?

A. I correct myself—during the first days of April the British carried out a mine laying operation in Norwegian territorial waters, which in the opinion of the Naval War Staff was clearly directed against pressing peaceful merchant navy traffic out of territorial waters, thus making it accessible to British forces. On the whole we regarded this, however, also as a tactical preparatory act, as against further outstanding measures.

Q. At that time our movements had already started, hadn't they?

A. At the time when the mine laying operation took place, our operations had already started from the home ports.

Q. Therefore, this mine laying operation can no longer be regarded as having been the reason for our operations?

A. No.

Q. Subsequently did you receive any further confirmation of the fact that this British intervention had actually been imminent at the time?

A. After the Western Campaign we also found in the French archives a large number of documents which dealt with this Norwegian operation. In addition, during the course of the Norwegian operation itself, it became evident that apparently a British operation was also already in progress when our operation started. Otherwise, it would not have been possible that, on the afternoon of our arrival in Narvik, British destroyers already could have been located outside the Lofoten Fjord; otherwise no fighting contact could have been established between our battle-ships, Gneisenau and Scharnhorst, and the British battle cruisers which were also in the Lofoten area.

Q. At the time were you under the impression that it was a justified preventive measure?

A. Yes, I had that impression at the time, and even today it is my opinion that this operation was militarily necessary and justified.

Q. May I ask you, in conclusion, to tell us very briefly in what phases of this operation the Naval War Staff participated?

A. There can be no doubt that the whole Norwegian problem was first of all taken up by the Naval War Staff and was recognized in the Naval War Staff in its whole significance, and subsequently brought to Hitler's attention for the first time. That,

however, was in the nature of the whole matter, because something concerned with transport across the sea would necessarily fall under the responsibility of the Naval War Staff. In addition, it is also correct that Quisling's first discussion took place with the Chief of the Naval War Staff and that the latter brought Quisling to Hitler.

Q. A little briefer, please.

A. Finally, in the last stage, the Naval War Staff put into implementation the operational directives which were given by Hitler in the order "Weser Exercise."

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENDANT WARLIMONT*

DIRECT EXAMINATION

* * * * *

DR. LEVERKUEHN (counsel for defendant Warlimont): The next decision which Hitler made after the Polish campaign, and which he realized was the campaign against Denmark and Norway; to what extent did Department L [National Defense] partake in these preparations?

DEFENDANT WARLIMONT: In exactly the same manner as it participated in all other campaigns, no less and no more. Originally it appeared as though a task would result in this instance which was particularly suitable for Department National Defense since it comprised officers in the army, navy, and air force. However, Hitler demanded—and I was informed of that through the usual channels, through Jodl or in writing—that for this purpose a special staff was to be created which in turn was to consist of a captain of the navy, a colonel of the air force, and a major of the army. These three officers were not to make an outward appearance and since, in addition, they had no auxiliary personnel of any type, they were attached to Department National Defense, as far as their offices were concerned. I had to vacate rooms for them for office space so that they were not to appear outwardly as a special staff. I had to make clerks, designers, telephones, stationery, and safes available for them so that they could carry out their work; but they were not subordinate to me. The captain of the navy was much older than I was anyway. For the rest, less than three weeks after it had been created this staff was put under the direction of General von Falkenhorst.

* * * * *

* Complete testimony is recorded in mimeographed transcript, 21-25, 28-30 June, 1, 2 July 1948; pp. 6312-7103.

CROSS-EXAMINATION

* * * * *

MR. RAPP: Now the attack on Norway was launched on 10 April 1940, just when did you get information that this attack was to come off?

DEFENDANT WARLIMONT: You mean when I was informed of the date or when I was informed of the plans that an occupation of Norway was being considered, namely in order to anticipate an occupation of Norway on the part of any other nation?

Q. I mean a third alternative, Witness. I mean when were you officially informed that Germany was set to attack Norway, that it was the Fuehrer's, what you may call, irrevocable intention to attack Norway?

A. I presume that I was informed of this in conjunction with the creation of this special staff at the end of January 1940. I am not at all sure, however, whether at that time the intention had been irrevocably determined or whether preparations were merely made in order to be prepared for such an operation under all circumstances. That I can no longer tell you.

* * * * *

RE-DIRECT EXAMINATION

* * * * *

DR. LEVERKUEHN: In cross-examination you were asked when you had learned of Hitler's decision regarding Norway and you replied, upon the creation of the special staff according to your recollection, in January 1940.

DEFENDANT WARLIMONT: 1940.

Q. In direct examination you stated that at the beginning of March you had made a report to Jodl in which you had voiced your opinion against such an enterprise. Is my assumption correct that when you heard of Hitler's intention in January 1940, you were not of the view that it was a war which had to be waged at all cost, but that the decision whether such a campaign was necessary or not would come at a later stage.

A. From the outset and during the subsequent stage of preparations I always held the view that this campaign had to be contingent upon the materialization of the intelligence that the French and British intended to occupy Norway, and that is on what I based my own suggestion, my suggestion in 1940. In my suggestion I stated that, in my opinion, at this stage the

danger no longer existed, and for that reason I made my suggestion that we, on our part, should also not think of an occupation of Norway.

* * * * *

b. Belgium, The Netherlands, and Luxembourg

TRANSLATION OF DOCUMENT TC-36*
PROSECUTION EXHIBIT 1141

STATEMENT GIVEN TO THE KING OF THE BELGIANS
ON 28 AUGUST 1939 BY THE GERMAN AMBASSADOR

26 August 1939

In view of the gravity of the international situation, the Head of the German Reich has charged me expressly with the task of transmitting to Your Majesty the following communication.

Though at present making every effort to find a peaceful solution to the questions which divide the Reich and Poland, the Government of the Reich nevertheless desires to define at once the attitude which it will adopt towards Belgium, should war in Europe become inevitable. The Government of the Reich is firmly resolved to adhere to the declaration contained in the German note of 13 October 1937. This stipulates that Germany shall in no circumstances attack the inviolability and integrity of Belgium, and shall at all times respect the territory of the kingdom. In renewing its undertakings, the Government of the Reich expects, however, that the Belgian Government will, for its part, maintain an attitude of strict neutrality that is, that the Belgian Government will tolerate no violation of its neutrality by any third party, but will, on the contrary oppose any such action with all the forces at its disposal. It goes without saying that, should the Belgian Government adopt a different attitude the Government of the Reich would naturally consider itself obliged to defend its interests as required by the newly created situation.

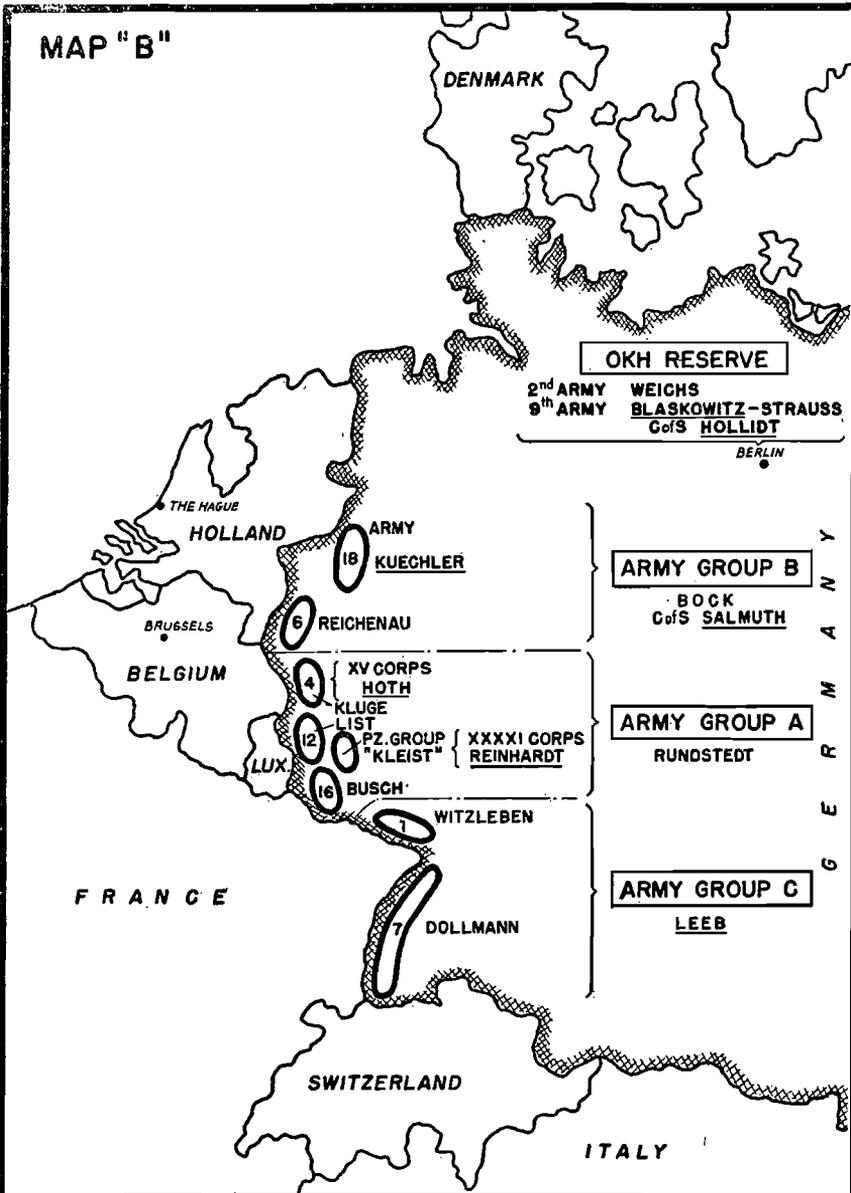
Certified correct copy of original.
Brussels, 12 October 1945

The Director
[Signed] JEAN BILLEN

* On 26 August 1939, Germany also made official declarations to Luxembourg (TC-42, Pros. Ex. 1143); and to the Netherlands (TC-40, Pros. Ex. 1142). See *Nazi Conspiracy and Aggression, op. cit. supra*, vol. VIII, pp. 383-385, for translation of these documents.

Several conventions or treaties of arbitration and conciliation between Germany and its neighbors include: arbitration convention with Belgium of 16 October 1925 (TC-13, Pros. Ex. 1134); convention of arbitration and conciliation with the Netherlands of 20 May 1926 (TC-16, Pros. Ex. 1135); and treaty of arbitration with Luxembourg (TC-20, Pros. Ex. 1136). *Ibid.*, pp. 320-325, 337-346, 362-368, respectively.

MAP "B"



INVASION OF FRANCE, BELGIUM,
THE NETHERLANDS, AND LUXEMBOURG
MAY 1940

PARTIAL TRANSLATION OF DOCUMENT 1796-PS*
PROSECUTION EXHIBIT 1078

NOTES FOR OKW WAR DIARY, 7 APRIL 1941, FOR PERIOD
SEPTEMBER 1939-APRIL 1940, CONCERNING ATTACK
ON LOWLANDS

7 April 1941

* * * * *

5. *End of September 1939*—Decision of the Fuehrer, to attack in the West and this as soon as possible since the French-British Army is not yet ready. Intention of attacking through Belgium and Holland (at least southern part) is certain from the start. From the very beginning it is the Fuehrer's idea not to repeat the Schlieffen plan but to attack in approximately a west-north-westerly direction through Belgium and Luxembourg under strong protection of the southern flank, and to gain the Channel coast.

After conclusion of the Eastern Campaign the restrictions hitherto existing in regard to warfare in the West are progressively being lifted. They served the purpose while the Eastern Campaign was in progress of not inciting the enemy in the West to greater action by German measures.

6. *October 1939*—Attack to begin at the earliest about 10 November. OKH is of the opinion that the preparations of the army will not be absolutely complete by this time. Frequently the opinion is advocated—by no means shared by the Fuehrer—that an attack in the West is unnecessary, the war could perhaps be won for us satisfactorily if we were to wait a little.

Fuehrer is determined to attack in November only if the *weather* will permit operations by the mass of the air force since only then can one of our most important triumphs become effective.

How situation would turn out if *France* [or] *England* marches into *Belgium* [or] *Holland*, is constantly the concern of the Fuehrer. Immediate attack of the German Western Army ("Case Immediate") must be prepared for this event.

7. *End of October 1939—Influence of the Fuehrer:*

a. Employment of *motorized* forces in direction Sedan is suggested by the Fuehrer. Preparations are under way for moving Army Group B and concentrating it at A after, in accordance with previous deployment of troops, main concentration had been at Army Group B.

* For additional portions of this document, see section D1, above.

b. Reoccupation of Holland; it has been decided that Holland is not to be occupied for the time being, rapid occupation in case of English landing should however be possible at any time.

c. Question of using parachute and airborne troops is being taken up by the Fuehrer.

8. *Beginning of November 1939*—Mainly under influence of the Fuehrer. a. Permanent reinforcement of the southern motorized group, which is to advance against Sedan.

b. Reinforcement of the western army to the utmost capacity.

The weather conditions prevent the execution of the attack in the West.

9. *23 November 1939*—Speech by the Fuehrer to the generals and admirals.

10. *End of November 1939*—*Influence of the Fuehrer* above all—

a. Holland is to be occupied immediately.

b. Shifting of the main concentration of Army Group B to A appears to have even better prospects.

c. Deployment of 7th Air Div. (deliberation of further possibilities).

d. Important to maintain element of surprise, therefore motorized units which are still all located at home will be moved up to the Rhine in order not to betray to the enemy the imminent beginning of the attack, by the moving up to the front.

e. Capture of the bridges at Maastricht and of the Fort Eben Emael, since destruction of the bridges would render impossible the fast advance of the Sixth Army.

First directive for *Warfare against England* (No. 9) is issued. Purpose—concentration of all combat weapons for important targets.

At a conference in the map-room of the OKW [High Command of the Armed Forces] in the Reich Chancellery, the Fuehrer expresses anew his opinion that *the attack planned in the West* will lead to the greatest victory in world history.

11. *December 1939*—In spite of the *severe winter* the Fuehrer, as always, still continues to consider it desirable to carry out the *attack in the West* as soon as possible and not to delay it until spring.

Reasons—

a. England [and] France must not be allowed under any circumstances to steal a march on us by occupying Belgium and

Holland since then—on account of the danger to the Ruhr basin—the war could hardly be won.

b. Time is not on our side but on the enemy's (see notes of Major Deyhle).

The Fuehrer is carefully watching the Russo-Finnish war (on account of the possibility of the Western Powers joining in to the advantage of Finland).

12. *Beginning of January 1940*—The introductory movements in *preparation for the big attack* are ordered anew by the Fuehrer, soon however stopped again on account of the weather condition, although most important operational documents fall into Belgian hands and thereby there is a possibility of our intentions becoming known.

For the deployment of the 7th Air Division a new possibility becomes more and more probable—Capture of the "Fortress Holland."

13. *Middle of January 1940*—During the past weeks probable *dates* for our attack in the West *have become known* in Belgium and Holland. The reason cannot be determined, the main fault lies possibly in the long waiting time just before the attack (issue of order 7 days beforehand). In order better to maintain the *surprise* element beyond the time of the attack, the Fuehrer orders therefore a *change in the alert procedure*.

The idea that the decisive point of the attack will have to be reached by breaking through southern Belgium (thus the total attack to be concentrated on the left) is being worked out by the Fuehrer in even greater detail.

The occupation of the whole of Holland is ordered. For this also the 7th Air Division is to be employed. Extensive deceptive measures are ordered. The "Sofort-fall" [Immediate Case] remains in effect. The Fuehrer *makes up his mind* to utilize the *Danish and Norwegian space* for the German warfare.

The Fuehrer considers what possibilities exist for forming new units. The setting up of the division's 7th and 8th wave is then ordered.

* * * * *

16. *End of April 1940*—The Fuehrer is determined to *begin in the West* as soon as possible, but only when situation in Norway has been cleared up (i.e., land communication Oslo-Trondheim has been established). This is now the case. The first good weather period in the West shall be utilized fully (only in good weather is it possible to use the air force to its fullest operational extent).

* * * * *

TRANSLATION OF DOCUMENT C-62
PROSECUTION EXHIBIT 1145

HITLER DIRECTIVE FOR THE PREPARATION OF THE INVASION OF
LUXEMBOURG, BELGIUM AND HOLLAND, AND ORDER FROM THE
HIGH COMMAND OF THE ARMED FORCES, 15 OCTOBER 1939,
CONCERNING THE ATTACK ON HOLLAND

The Supreme Commander of the Armed Forces
OKW No. 172/39. Top Secret. Matter for Chiefs
Armed Forces Operations Office/Department National Defense

Berlin, 9 October 1939
8 copies—copy No. 2

[Stamp] Top Secret

[Stamp]

CinC Navy
Op 283/39
Recd. 10 October 1939

[Stamp]

Matter for Chiefs
Through officer only

Directive No. 6
For the Conduct of the War

1. If it should become apparent in the near future that England, and under England's leadership also France are not willing to make an end to the war, I am determined to act actively and aggressively without much delay.

2. If we wait much longer, not only will Belgian and perhaps also Dutch neutrality be lost in favor of the Western Powers, but the military strength of our enemies will grow on an increasing scale, the neutrals' confidence in a final German victory will dwindle, and Italy will not be encouraged to join us as a military ally.

3. Therefore I give the following orders for the further military operations.

a. Preparations are to be made for an attacking operation on the northern wing of the western front, through the areas of Luxembourg, Belgium, and Holland. This attack must be carried out with as much strength and at as early a date as possible.

b. The purpose of this attacking operation will be, to defeat as strong contingent of the French operational army, as possible, as well as the allies fighting by its side, and at the same time to gain as large an area as possible in Holland, Belgium, and Northern France as a base for conducting a promising air and naval

war against England and as a broad area on the immediate front of the vital Ruhr area.

c. The timing of the attack depends on the readiness of tanks and motorized units for use—this must be speeded up by every possible effort—also on the weather conditions then prevailing and the weather prospects ahead.

4. The air force is to prevent the Anglo-French Air Force from attacking our own army, and, if necessary, to give direct support to the army's advance. In this connection, it will also be essential to prevent the Anglo-French Air Force as well as English landing troops from gaining any hold in Belgium and Holland.

[Marginal note in handwriting] It will also be up to the air force to cut the supply lines of those English troops which have already landed. The employment of U-boats in the Channel will soon cease because of heavy losses.

5. The direction of naval warfare must concentrate everything on being able to give direct and indirect support to the operations of the army while this assault lasts.

6. Apart from these preparations for starting the attack in the West according to plan, army and air force must be ready at any time and with increasing strength, in order to be able to meet an Anglo-French invasion of Belgium as far inside Belgian territory as possible, and to occupy as much of Holland as possible in the direction of the west coast.

[Marginal note in handwriting] This kind of procedure would be more desirable in every respect.

7. The camouflage used for these preparations must be that they are merely precautionary measures in view of the threatening concentration of French and English forces on the Franco-Luxembourg and Franco-Belgian borders.

8. I request the commanders in chief to give me, as soon as possible, detailed reports of their intentions on the basis of this directive and from now on, to keep me informed, via the OKW, of the state of the preparations.

[Signed] ADOLF HITLER

Distribution :

High Command of the Army—copy No. 1

High Command of the Navy—copy No. 2

Reich Minister for Aviation and C in C Air Force—copy No. 3

High Command of the Armed Forces

Chief Armed Forces Operations Office—copy No. 4

Chief [Dept.] National Defense, copy No. 5

Ia—copy No. 6
Ib—copy No. 7
Ic—copy No. 8

[Stamp] *Top Secret*

High Command of the Armed Forces
Armed Forces Operations Office No. 20/39 Top Secret
Matter for Chiefs

Berlin, 15 October 1939*

Subject: "Case Yellow."

Matter for Chiefs
Through officer only

7 copies—copy No. 2

The queries roused by the High Command of the Army, on the subject of the execution of directive OKW/Armed Forces Operations Office/Dept. National Defense No. 213/39, Top Secret dated 14 November 1939, were discussed with the Fuehrer today.

The result was as follows:

It is of not inconsiderable significance for the over-all strategy of the war to protect the Ruhr areas by moving the plane-spotting organization and the air defense as far forward as possible in the area of Holland.

The more Dutch territory we occupy, the more effective can the defense of the Ruhr area be made. This viewpoint must determine the choice of objectives made by the army, even if army and navy are not directly interested in such a territorial gain. Therefore, the purpose of the army's preparations must be to occupy—when a special order is received—the area of Holland, at first as far as the Brebbe-Meuse line. It will depend on the political and military attitude of the Dutch, as well as on the effectiveness of their flooding, whether it will be necessary and possible to push the objective still farther.

Likewise, preparations must be made to take possession of the West Frisian Islands, with the support of the navy, at first with the exception of Texel, as soon as the northern coast of Groningen is in our hands; these too are of great significance as bases for the aircraft reporting service and England must be deprived of the possibility of seizing them for similar purposes.

[Signed] KEITEL

Distribution:

High Command of the Army (General Staff of the Army)—
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* The date should read 15 November 1939.

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High Command of the Armed Forces/Dept. National Defense—
copy Nos. 4, 5, & 6
Draft—copy No. 7

PARTIAL TRANSLATION OF DOCUMENT 2329-PS
PROSECUTION EXHIBIT 1147

ORDERS SIGNED BY BRAUCHITSCH, CINC ARMY, 7 OCTOBER AND
15 NOVEMBER 1939, CONCERNING PREPARATIONS
FOR INVASION OF LOWLANDS

Top Secret

[Stamp]

Top Secret
Through Officers only
The Commander in Chief of the Army
Operations Department (Ia)
General Staff of the Army
No. 4402/39, Top Secret

HQ, High Command of the Army, 7 October 1939
11 copies—2d copy

General von Bock takes over command of the newly formed Army Group B on 10 October 1939 at 1200 hours.

Task for Army Group B is the protection of the German frontier from the mouth of the Ems to the line of demarcation with Army Group C. For this task Army Group B holds the western fortifications, resistance starts at the frontier.

The Dutch border between Ems and Rhine is only to be observed.

At the same time, Army Group B has to make all preparations, according to special orders, for immediate invasion of Dutch and Belgian territory, if the political situation so demands.

The order for the occupation is given by the Army High Command. Until then, any frontier violation of Dutch or Belgian territory must be avoided most carefully.

Signed: VON BRAUCHITSCH
Certified:

[Signed] HEUSINGER

[Handwritten]
Chief Army Signal Service
8 October 1939

Distribution:
Army Group B }
Army Group C } by teletype

General Quartiermeister
Chief of Army Signal Service
Oberquartiermeister IV
Org. Department
Gen of Air Force with Commander in Chief of the Army
Operations Department (Ia, II, III)

[Stamp]

Top Secret

[Stamp]

Matter for Chiefs
Through Officer only

The Commander in Chief of the Army
General Staff of Army,
Operations Section (II)
No. 44 493/39, Top Secret

Headquarters, High Command of the Army

15 November 1939

15 copies—9th copy

To: Army Group Command B

The Fuehrer and Commander in Chief of the Armed Forces have issued the following orders:

In case Germany should march through the southern tip of Holland or fly over Holland with large units, we must reckon anew with the possibility that our opponents, for their part, may no longer respect the neutrality of Holland and may fly over Dutch territory with assault units, or may even set foot on Fortress Holland with partial forces. For the air defense of western Germany, especially of the Ruhr region and the North Sea harbors, it thus becomes necessary to gain a broader advance field for our air defense by occupying as much Dutch territory as possible.

The army must thus be prepared from the start of the attack in the West to occupy first of all, the Dutch territory in front of the Fortress Holland on orders from the Fuehrer and Commander in Chief of the Armed Forces. For this task a minimum of forces is to be used.

In this case, the *navy*, in addition to the tasks allotted to it by its instructions, will have to assist the army in the occupation of the Dutch islands.

To this end the following is ordered:

1. Army Group B is commissioned with the preparations for and the execution of the occupation—*the latter only on orders from the Army High Command.*

2. Following instructions apply to the execution:

a. The province of Groningen is to be occupied by weak forces, if possible through use of tank platoons.

b. The forces required to occupy the area between Ijssel and Grebbeline and to guard the east front of Fortress Holland are to be advanced by way of Arnhem.

c. The territory between Meuse (Waal if possible) and the Belgian-Dutch border as far as the coast, is to be seized by a special group from the northern flank of the 6th Army, during the course of the offensive movement of this army, and this territory is to be secured toward the south front of Fortress Holland. This occupation is urgent.

d. Orders will follow concerning the West Frisian Islands.

3. The forces required for the occupation of Dutch territory are to be taken from the zone of command of Army Group B. The staffs of Army Commands 2 and 18 are not to be employed. New troops to be put under the command of the command of Army Group B are:

a. Higher Command XXXIII, ready to be called, at Duermen.

b. 208 Division, detraining by 21 November, in area Coesfeld-Muenster.

c. Four armored railroad trains. To be transferred to Leer, Rheine, and Muenster by 21 November, at the latest.

d. Further bringing up of the 223d Division and the 1st Cav. Division, beginning on 3d A-day, is to be counted on. Desired detraining space is to be reported to Army High Command Operations Department.

e. The assignment of further army artillery battalion may be proposed, to a limited extent.

4. Army Group B is to report on the planned execution of the task with map 1:300,000.

5. Supplementary instructions for deployment in the sense of this order will follow.

Signed: VON BRAUCHITSCH

Certified:

[Signed] GREIFFENBERG

Colonel, GSC

Distribution:

Army Group Command B—copy 1

For information:

Army Group Command A—copy 2

Army Group Command C—copy 3

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O.Qu.I—copy 6
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of Army—copy 10
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PARTIAL TRANSLATION OF DOCUMENT NOKW-2586
PROSECUTION EXHIBIT 1148

LETTER FROM BRAUCHITSCH, 29 OCTOBER 1939, ENCLOSING
DEPLOYMENT DIRECTIVE "YELLOW"; AND COVER LETTER FROM
ARMY GROUP B, 5 NOVEMBER 1939, DISTRIBUTING THIS DIRECTIVE

[Stamp] Top Secret

High Command of the Army
General Staff of the Army
Operations Section
No. 44 440/39 Top Secret
Part II

Headquarters OKH, 29 October 1939
[Handwritten note] 30.1500
25 copies—7th copy

[Stamp]
Matter for Chiefs
Through officer only
3 Enclosures

[Handwritten notations]
2d Army
Ia No. 217/39
Top Secret
Matter for Chiefs
corrected
3 November 1939 Be.

Enclosed are forwarded:

1. Redraft of the *Deployment Directive "Yellow"*
2. Alterations to the *explanations to enclosure 1*
Redraft of *enclosure 1—Large Formations*
Supplement to *enclosure 1—Army Troops*
3. Redraft of *enclosure 4—Orders for Air Force Units* including enclosure

The supplement to *enclosure 5—Orders for the Supply—* follows.

Parts replaced by the above redrafts of the deployment directive are to be destroyed.

[Initial] J.

[Handwritten notations]
for the present put on file
under Matter for Chiefs I Be.
On 7 March 1940, given to the
Chief of the Army Archives.

BY ORDER:

[Signed] V. GREIFFENBERG

Distribution:

As for Deployment Directive "Yellow"

Top Secret

[Handwritten] 2d Army, 29 October 1939

The Commander in Chief of the Army 25 copies—7th copy
General Staff of the Army
Operations Section
No. 44 440/39 Top Secret

Part II

[handwritten] Redrafts

[Initial]

[Stamp]

Matter for Chiefs
Through officer only

Deployment Directive "Yellow"

1. *General intentions.*—The Western Powers' attitude may necessitate a German offensive in the West. All available forces will be employed for this intention with the aim to engage in battle forces as large as possible from the French Army and their Allies on *Northern French and Belgian territory* and to defeat them, creating thereby favorable conditions for carrying on the war on land and in the air against England and France.

[Handwritten] no longer *Dutch!* [Illegible initial]

2. *Break-down and tasks*

a. The attack will be carried out under my command by Army Groups B and A with the intention to destroy the Allied Forces in the sector *north of the Somme* and to push through to the *Channel coast*.

[Handwritten] so far only *Belgian coast*.

[Handwritten] so far *Rheine*.

Army Groups B and A will concentrate east of the Reich borders between *Geldern* and *Mettlach* (south of *Trier*) camouflaged in such a way that they will be able to occupy the assembly area necessary for the crossing of the border in six night marches ready to start the attack on the morning of the seventh day.

Special orders will be issued as to the time at which the assembly area has to be occupied (cf. No. 9).

Army Group C will have to hold the fortifications in its sector with a minimum of forces. Special orders will be issued regarding feigning intentions of attack.

b. Subordinated to Army Group B (northern flank of the attack) are—The Deputy Corps Headquarters VI with regard to the securing of the Dutch border. The 6th Army for the attack north of *Liege*. The 4th Army for the attack south of *Liege*.

For commitment *during the course* of attack are to be made available by orders of the army group—within the 6th Army sector, the *18th Army* (will be brought up); within the 4th Army sector, the *2d Army*.

Army Group Command B will designate the time at which 6th Army takes over command within the area formerly under 2d Army and reports time and location of assembly of 18th Army and 2d Army. It arranges participation of these armies in the preparation for attack.

[Handwritten] ?

* * * * *

3. *Missions for the attacking front*

a. *Army Group B* will attack first in a westerly direction after forcing its way through the Belgian border fortifications. *One group* of the attacking forces is to be led *north* past *Liege* into the *Brussels* sector; the *other*, *south past Liege* into the *sector west and southwest of Namur* in such a way that the attack of the army group may be carried ahead according to conditions also *in a westerly or southwesterly direction* without loss of time.

[Handwritten] so far *Brussels*

Mobile forces are to be employed *as quickly and as strongly as possible* after forcing their way through the *fortified border region*. In the sector of the *northern attacking forces*, they are to be pushed ahead in the direction of *Ghent*; within the sector of the *southern attacking forces*, in the direction of *Thuin*, with the intention to prevent, by a reckless offensive, the formation of an enemy battle front, and to create in a common effort, according to orders by the army group, favorable conditions for the offensive of the succeeding forces.

Army Group B will if necessary give orders for the combined employment of the mobile forces of both attacking groups at the spot where favorable possibilities of employment will arise sooner. Idleness of mobile forces attached to attacking forces has to be prevented if they can usefully be employed with others. The mobile forces are to be relieved of the following infantry division's command with their release to the front. *Army Group B arranges the commitment of the armies for their different tasks.*

The fortresses Liege and Antwerp are to be *encircled* according to orders of the Army Group B. An escape of the enemy from the fortress area must be prevented.

[Handwritten] Supplement according to OKH, General Staff of the Army, Operations Section No. 44440/39. Top Secret Matter for Chiefs. Part III of 15.11.39/Be.

The 6th Army will be employed from the line-up (as formerly) Venlo-Aix-la-Chapelle (cities included) in such a way, that they are enabled to pass over the Meuse quickly and push through the Belgian border fortifications with the least possible loss of time while covering their right flank against action by Dutch forces. Further direction of attack *Brussels*. The *northern and eastern front of Antwerp* is to be sealed off in good time. The army shall furthermore close off the fortification area [of] Liege, in the north according to orders by the army group.

[Handwritten] ?

[Handwritten] Supplement 2 according to OKH, General Staff of the Army, Operations 1 No. 44440/39. Top Secret Matter for Chiefs. 15 November 1939. (Be.)

The 4th Army pushes on a *wide front* through the fortified border area between Liege and Houffalize (included), and attacks in a westerly direction across the Meuse *on both sides of Namur*, the *Nivelle-Chimay line*.

The fortified area of Liege will be closed off by the army in the east and west and will keep in readiness to complete the close encirclement of the fort by a flanking movement of parts against the western front according to orders by the Army Group B. Namur is to be closed off by small forces for the time being.

[Handwritten] *Re-draft* according to OKH, General Staff of the Army, Operations Section No. 44440/39. Top Secret Matter for Chiefs. 15 November 1939. (B.)

b. *Army Group A covers the offensive by Army Group B against enemy action from the south and southwest. For this purpose it advances its right army flank as quickly as possible *across the Meuse at and south of Fumay* and further on *through the fortified French border area* in the general direction of Laon.

* Paragraph b struck out in original document.

The 12th Army pushes through the Belgian border fortifications on both sides of Bastogne after crossing the Our for their advance. With a strong right flank they enforce their crossing of the Meuse *at and above* Fumay, taking the direction of Laon. Their left flank makes contact with the defense front of the 16th Army in the vicinity of Carignan according to orders by Army Group A.

The 16th Army attacking from the line of Wallendorf-Mettlach gains, while sharply pushing the right flank ahead, the general direction of *Carignan-Longwy-Sierck*, covering on this line the southern flank of the general offensive.

They make and hold with their left flank contact with the fortified Saar line south of Mettlach, according to agreement with the 1st Army.

4. Headquarters.

Army Group B—Bad Godesberg

6th Army—Grevenbroich

4th Army—Euskirchen

2d Army } *according to instruction from Army Group B.*

18th Army } [Handwritten] Bonn Wuppertal. Be.

Army Group Command A—Koblenz

12th Army—Mayen

16th Army—Bad Bertrich

* * * * *

7. Cooperation with the air force

The following depends on cooperation—Army Group B with the 2d Air Fleet and Antiaircraft Corps II; Army Group A with the 3d Air Fleet and Antiaircraft Corps I; Army Group C with the 3d Air Fleet.

* * * * *

9. Assembly and moving into position of readiness

The Army Groups B and A have to assemble their forces up to *the evening of 5 November* in such a way that they will be able to occupy their assembly area for the offensive in six night marches. The following territories are to be kept unoccupied in this case for the OKH reserves: Dortmund-Hagen-Siegen-Frankfurt/Main-Gelnhausen-Marburg-Lippstadt.

* * * * *

[Signed] VON BRAUCHITSCH

Enclosures:

1. Survey of forces
2. Enemy situation

3. Orders for signal communications
4. Orders for the air force units
5. Orders for supply

[Illegible initial] 29.10

Distribution:

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[Stamp]

Top Secret

[Handwritten] Commander in Chief 2d Army

[Stamp] Through officer only

Army Group B

Ia No. 650/39 Top Secret

Matter for Chiefs

Hq., Bad Godesberg, 5 November 1939

1100 hours

35 copies—5th copy

[Handwritten] Chief R

[Illegible initial], 9 November

[Handwritten] 2d Army

Ia No. 222/39

Top Secret

Matter for Chiefs

As enclosure, the army group, hereby, is sending the following supplementary directives to the, "deployment directive Yellow", from the Commander in Chief of the Army.

1. Part I—Intention and tasks in addition, "Enemy Situation", as *enclosure 1* (these only for the commanders in chief of the armies).

[Handwritten] Destroyed, 6 December 39, [Initials] BE.

2. Part II—Comprehensive orders for assembly and moving into position.

[Handwritten] Destroyed, 6 December 39.

3. Part III—Special Spheres.

"Special orders for signal communications", as *enclosure 2*.

"Special orders for Reconnaissance", as *enclosure 3*.

"Special orders regarding light signals", as *enclosure 4*.

[Handwritten] In acc. with Army Group B No. 353/39. Top Secret. Army Signals Commander, of 22 November 39. Destroyed on 23 November 39 [Initials] BE.

[Initial] S.

[Signed] v. BOCK

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2078
PROSECUTION EXHIBIT 1150

ENTRY IN WAR DIARY OF NAVAL WAR STAFF, 15 NOVEMBER 1939,
CONCERNING NEW FUEHRER DIRECTIVE

* * * * *

Control No. 2

TOP SECRET

Through officer only
War Diary of the Naval War Staff
(1st Section)
Part A

Chief of Naval War Staff, Admiral of the Fleet Raeder
Chief of Staff of Naval War Staff, Commodore Schniewind
Chief of Section 1, Naval War Staff, Commodore Fricke

Book 3

Started 1 November 1939

Concluded 30 November 1939

Date and hour

Indication of place, wind, weather,
sea, light, visibility, moonlight, etc.

Incidents

15 November

*Meeting to discuss the
situation with the Chief
of the Naval War Staff:
Special matters:*

1. *New instructions from the Fuehrer, dated 14 November 1939*

a. In the course of the Operation West it may possibly be expected that the neutrality of Holland will not be respected by the Western Powers (flying over Dutch territory, occupation by parts of the armed forces of the Fortress Holland). In this event it is essential for Germany to gain as much Dutch territory as possible as an outpost area for air defense. *Task of the navy* will be—apart from the allotted tasks as ordered until now—assistance for the army in occupying Dutch islands; blockading of Dutch harbors and fairways, as well as combat operations against the Dutch fleet *only by order of the Fuehrer.*

b. *Navy is authorized to take the following measures, effective immediately:*

(1) Sinking, without previous warning, of such passenger ships, as are found to be armed, or of which it is known that they are armed. As far as it is already known that they are armed, the names of these passenger ships are to be regularly published in the press.

(2) Sinking, without previous warning, of tankers heading for England or France, and coming from England or France, within a limited area to be determined by the CinC Navy, off the coasts of England and France. (Excluded are tankers recognized beyond doubt as American, Russian, Japanese, Italian, or Spanish tankers.)

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-568
PROSECUTION EXHIBIT 1151

ARMY GROUP B DIRECTIVE, 16 NOVEMBER 1939, CONCERNING
INVASION OF HOLLAND

[Stamp] Top Secret
Army Group B

[Stamp] Through officer only
Headquarters Bad Godesberg, 16 November 1939

.....hours

(Initial) 16/11
40 copies—39th copy

1. In the case of a German attack through southern Holland, it is to be expected that the British will try to establish themselves firmly in northern Holland and especially that they will try to utilize the Fortress Holland as a base for their air force.

2. The High Command of the army has ordered Army Group B to make the necessary preparations to occupy as large a part as possible of Dutch territory north of the River Waal when so ordered by the OKH.

With reference to the above.

3. Corps Headquarters, X Army Corps is made responsible for the preparation, and if so ordered, for the execution of the operation against Dutch territory north of the River Waal.

4. Upon special orders, this will be the task for corps headquarters, X Army Corps. After having crossed the border at the earliest, at X-hour, on A-day with one combat group, each having advanced from the area around Ahaus and Emmerich, to attack as rapidly as possible—motorized forces in front—across the River Ijssel at Zutphen and Arnhem, with the mass of the troops at Arnhem, seizing first of all the area between the River Ijssel and the Grebbe line.

* * * * *

[Signed] VON BOCK*

Distribution:

Distribution for Army Group B, Ia No 962/39, Top Secret, Matter for Chiefs, dated 16 November 1939.

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* The German original, as filed with the Secretary General, also shows the initial of defendant Salmuth, CofS of Army Group B at that time.

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**TRANSLATION OF DOCUMENT 440-PS
PROSECUTION EXHIBIT 1152**

**HITLER DIRECTIVE, SIGNED BY KEITEL, 20 NOVEMBER 1939,
CONCERNING PLANS AND PREPARATIONS
FOR INVASION OF HOLLAND**

The Supreme Commander of the Armed Forces

Berlin, 20 November 1939

8 copies
copy

High Command of the Armed Forces
Armed Forces Operations Office
No. 213/39 Top Secret
Matter for Chiefs, Dept. L (I)
[Stamp] Top Secret

[Stamp]
Matter for Chiefs
Through officer only

**Directive No. 8
For the Conduct of the War**

1. The state of alert must be maintained for the time being to continue at any time with the deployment which has been initiated. Only in this way is it possible to take immediate advantage of a favorable weather situation.

The branches of the armed forces will make preparations so that the attack can still be stopped, even if the order for stopping the attack should arrive at the higher command only at A-day minus one at 2300 hours. The code word "Rhine" (carry out attack) or "Elbe" (stop attack) will be transmitted to the higher commands not later than at the above-mentioned time.

The High Command of the Army and the High Command of the Air Force are requested to report immediately after the designation of attack day to the High Command of the Armed Forces, Department National Defense the hour at which the beginning of the attack is planned by mutual agreement.

2. Contrary to previously issued instructions, all actions intended against *Holland* may be carried out without a special order when the general attack starts.

The attitude of the Dutch Armed Forces cannot be anticipated ahead of time. Wherever there is no resistance, the entry should carry the character of a peaceful occupation.

3. The *operations on land* are to be conducted on the basis of the deployment directive of 29 October. The following statements will apply:

a. All arrangements are to be made in order to shift quickly the main effort of the operations from Army Group B to Army Group A, in case faster and greater successes should develop at Army Group A than at Army Group B, as one might well conclude from the present distribution of enemy forces.

b. At first the Dutch area, including the West-Frisian Islands situated just off the coast, for the present without Texel is to be occupied up to the Grebbe-Meuse line.

4. Blockade measures against the Belgian and, contrary to earlier orders, also against the Dutch harbors and navigable waters are authorized for the *navy*, namely for submarines during the night before the attack, and for surface fighting craft and airplanes from the time of the attack of the army. The span of time between the beginning of the blockade operations and the time of the attack on land must however be kept as short as possible for the deployment of the submarines.

Battle actions against Dutch Naval Forces are authorized only, if they take a hostile attitude.

The navy will take over the artillery defense of the coast against attacks from the sea in the coastal territories which are to be occupied. The preparations for that are to be made.

5. The missions of the *air force* remain unchanged. They are supplemented by special orders, which the Fuehrer has given orally, about airborne landings and support of the army in the seizure of the bridges west of Maastricht.

The 7th Air Division [7. Fl. Div.] will be committed for the airborne operation only after the possession of bridges across the Albert Canal has been assured. The quickest transmission of this message is to be assured between the High Command of the Army and the High Command of the Air Force.

Localities, especially large open cities, and industries are not to be attacked without compelling military reasons, neither in the Dutch, nor in the Belgian-Luxembourg area.

6. *Closing of the borders*

a. Until the beginning of the attack the traffic and news service across the border is to be maintained in its present size across the Dutch, Belgian, and Luxembourg border, in order to assure the moment of surprise. Until the beginning of the attack, civil authorities are not to participate in the preparations for a border closing.

b. *With the beginning of the attack*, the Reich border against Holland, Belgium, and Luxembourg is to be blocked for all non-military traffic and news service across the border. The commander in chief of the army gives the order in that respect to the military and civilian offices concerned. With the beginning of the attack, the supreme Reich authorities concerned will be informed by the High Command of the Armed Forces that the measures for the closing of the border are ordered directly by the Commander in Chief of the Army—and that this also applies to Dutch border not in the area of operations.

c. On the *other Reich borders opposite neutral countries*, there will at first be no restrictions in traffic and news service across the border after the beginning of the attack. Further measures which have been prepared for the supervision of the pedestrian traffic and news service will be put into force, if necessary.

BY ORDER :

Signed : KEITEL

Certified :

[Illegible signature]

Captain

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II—2d copy, for information

[Handwritten] Acknowledged 21 November [Illegible initial]

RECORD OF HITLER'S SPEECH AT THE CONFERENCE
ON 23 NOVEMBER 1939

[Handwritten] Duplicate

23 November 1939, 1200 hours.

Conference with the Fuehrer,* to which all commanders in chief are ordered. The Fuehrer gives the following speech:

The purpose of this conference is to give you an idea of the world of my thoughts, which takes charge of me in the face of future events, and to tell you my decisions. The building up of our armed forces was only possible in connection with the ideological education of the German people by the Party. When I started my political task in 1919, my strong belief in final success was based on a thorough observation of the events of the day and the study of the reasons for their occurrence. Therefore, I never lost my belief in the midst of set-backs which were not spared me during my period of struggle. Providence has had the last word and brought me success. On top of that, I had a clear recognition of the probable course of historical events, and the firm will to make brutal decisions. The first decision was in 1919, when after long internal conflict I became a politician and took up the struggle against my enemies. That was the hardest of all decisions. I had, however, the firm belief that I would arrive at my goal. First of all, I desired a new system of selection. I wanted to educate a minority which would take over the leadership. After 15 years I arrived at my goal, after strenuous struggles and many set-backs. When I came to power in 1933, a period of the most difficult struggle lay behind me. Everything existing before that had collapsed. I had to reorganize everything beginning with the mass of the people and extending it to the armed forces. First reorganization of the interior, abolishment of appearances of decay and defeatist ideas, education to heroism. While reorganizing the interior, I undertook the second task—to release Germany from its international ties. Two particular characteristics are to be pointed out—secession from the League of Nations and denunciation of the disarmament conference. It was a hard decision. The number of prophets who predicted that it would lead to the occupation of the Rhineland was large, the number of believers was very small. I was supported by the nation which stood firmly behind me when I carried out my intentions. After

* See minutes of Hitler conferences on 28 May 1939 and 22 August 1939, where the violation of Belgian and Dutch neutrality was contemplated. (L-79, Pros. Ex. 1083 and 798-PS, Pros. Ex. 1101.) These documents are reproduced above in section D1.

that the order for rearmament. Here again there were numerous prophets who predicted misfortunes, and only a few believers. In 1935, the introduction of compulsory armed service. After that, militarization of the Rhineland, again a process believed to be impossible at that time. The number of people who put trust in me, was very small. Then the beginning of the fortification of the whole country especially in the west.

One year later, Austria came; this step also was considered doubtful. It brought about a considerable reinforcement of the Reich. The next step was Bohemia, Moravia, and Poland. This step also was not possible to accomplish in one campaign. First of all, the western fortification had to be finished. It was not possible to reach the goal in one effort. It was clear to me from the first moment that I could not be satisfied with the Sudeten-German territory. That was only a partial solution. The decision to march into Bohemia was made. Then followed the erection of the Protectorate and with that the basis for the action against Poland was laid, but I wasn't quite clear at that time whether I should start first against the East and then in the West or vice-versa. Moltke often made the same calculations in his time.

Under pressure the decision came to fight with Poland first. One might accuse me of wanting to fight and fight again. In struggle I see the fate of all beings. Nobody can avoid a struggle if he does not want to lose. The increasing number of people required a larger living space. My goal was to create a logical relation between the number of people and the space for them to live in. The struggle must start here. No people can get away from the solution of this task or else it must yield and gradually die out. That is taught by history. First migration of peoples to the southeast, then adaptation of the number of people to the small space by emigration. In the last years, adaptation of the people to insufficient space, by reducing the number of births. This would lead to the death and weakening of the blood of the people. If a people chooses that course all their weaknesses are mobilized. One yields to the force of the outside and uses this force against oneself by the killing of the child. This means the greatest cowardice, decimation of the number, and loss of value. I decided a different way—adaptation of the living space to the number of people. One acknowledgement is important. The state has a meaning only if it supports the maintenance of its population potential. In our case 82 million people were concerned. That means the greatest responsibility. He who does not want to assume this responsibility is not worthy of belonging to the mass of the people. That gave me the strength to fight.

It is one eternal problem to bring the number of Germans to a proper relationship to the available space. Security of the needed space. No calculated cleverness is of any help, solution only with the sword. A people unable to produce the strength for fight, must withdraw. Struggles are different from those of 100 years ago. Today we can speak of a racial fight. Today we fight for oilfields, rubber, mineral wealth, etc. After the Peace of Westphalia Germany disintegrated. Disintegration, impotence of the German Reich was determined by decree. This German impotence was removed by the creation of the Reich when Prussia realized her task.

Then the opposition between France and England began. Since 1870 England has been against us. Bismarck and Moltke were certain that there would have to be one more action. The danger at that time was of a two-front war. Moltke was, at times, in favor of a preventive war. To take advantage of the slow progress of the Russian mobilization. German armed might was not fully employed. Insufficient sternness of the leading personalities. The basic thought of Moltke was the offensive. He never thought of the defense. Many opportunities were missed after Moltke's death. The solution was only possible by attacking a country at a favorable moment. Political and military leadership always declared that it was not yet ready. In 1914, there came the war on several fronts. It did not bring the solution of these problems. Today the second act of this drama is being written. For the first time in 67 years it must be made clear that we do not have a two-front war to wage. That which has been desired since 1870, and considered as impossible of achievement has come to pass. For the first time in history we have to fight on only one front, the other front is at present free. But no one can know how long that will remain so. I have doubted for a long time whether I should strike in the East and then in the West. Basically I did not organize the armed forces in order not to strike. The decision to strike was always in me. Earlier or later I wanted to solve the problem. Under pressure it was decided that the East was to be attacked first. If the Polish war was won so quickly, it was due to the superiority of our armed forces. The most glorious appearance in our history. Unexpectedly small expenditures of men and matériel.

Now the eastern front is held by only a few divisions. It is a situation which we viewed previously as unachievable. Now the situation is as follows. The opponent in the West lies behind his fortifications. There is no possibility of coming to grips with him. The decisive question is—how long can we endure this situation? Russia is at present not dangerous. It is weakened by many in-

cidents today. Moreover, we have a pact with Russia. Pacts, however, are only held as long as they serve the purpose. Russia will hold herself to it only so long as Russia considers it to be to her benefit. Even Bismarck thought so. Let one think of the pact to secure our rear. Now Russia has far reaching goals, above all the strengthening of her position in the Baltic. We can oppose Russia only when we are free in the West. Further, Russia is striving to increase her influence on the Balkans and is striving toward the Persian Gulf. That is also the goal of our foreign policy. Russia will do that which she considers to benefit her. At the present moment internationalism has retired. In case she renounces this, she will proceed to Pan-slavism. It is difficult to see into the future. It is a fact that at the present time the Russian army is of little worth. For the next one or two years the present situation will remain.

Much depends on Italy, above all on Mussolini, whose death could alter everything. Italy has a great goal for the consolidation of her empire. Those who carry this idea are fascism and the Duce, personally. The court is opposed to that. As long as the Duce lives, then it can be calculated that Italy will seize every opportunity to reach her imperialistic goal. However, it is too much to ask of Italy, that it should join in the battle before Germany has seized the offensive in the West; just so Russia did not attack until we had marched into Poland. Otherwise Italy will think that France has only to deal with Italy, since Germany is sitting behind its West Wall. Italy will not attack until Germany has taken the offensive against France. Just as the death of Stalin, so the death of the Duce can bring danger to us. Just how easily the death of a statesman can come I myself have experienced recently. The time must be used to the full, otherwise one will suddenly find himself faced with a new situation. As long as Italy maintains this position then no danger from Yugoslavia is to be feared. Just so is the neutrality of Rumania achieved by the position of Russia. Scandinavia is hostile to us because of Marxist influences but is neutral now. America is still not dangerous to us because of its neutrality laws. The strengthening of our opponents by America is still not important. The position of Japan is still uncertain, it is not yet certain whether she will join against England.

Everything is determined by the fact that the moment is favorable now, in 6 months it might not be so any more.

As the last factor I must name my own person in all modesty—irreplaceable. Neither a military nor a civil person could replace me. Assassination attempts may be repeated. I am convinced of the powers of my intellect and of decision. Wars are always

ended only by the destruction of the opponent. Everyone who believes differently is irresponsible. Time is working for our adversary. Now there is a relationship of forces which can never be more propitious, but can only deteriorate for us. The enemy will not make peace when the relationship of forces is unfavorable for us. No compromise. Sternness against ourselves. I shall strike and not capitulate. The fate of the Reich depends only on me. I shall deal accordingly. Today we have a superiority such as we have never had before. After 1914, our opponents disarmed themselves of their own accord. England disregarded the construction of her fleet. The fleet is no longer sufficiently large to safeguard the shipping lanes. Only two modern new constructions—Rodney and Nelson. New construction activity only in the cruisers of the Washington class which were, however, an unsatisfactory type. The new measures can become effective only in 1941. In the Abyssinian war, England did not have enough strength to occupy Lake Tana. At Malta, Gibraltar, and London little antiaircraft protection. Since 1937, a renewal of rearmament. At present however only a small number of divisions which must form the nucleus of new divisions. Material for the army being gathered together from all over the world. Not before next summer is a positive action to be expected. The British Army has only a symbolic meaning. Rearmament in the air is proceeding. The first phase will end in the spring of 1940. Antiaircraft has only guns from the last war. A German flyer is safe from English antiaircraft fire at 6,000 meters altitude. The navy will not be fully rearmed before one to two years. I have the greatest experience in rearmament, and I know the difficulties which must be overcome therein.

After 1914, France reduced the length of service. After 1914, decrease of military might. Only in some special branches are we inferior. Only the French Navy was modernized. In the time after the war the French Army deteriorated. There were no changes until Germany rearmed and announced her demands.

In summary—(1) The number of active units in Germany is greatest, (2) superiority of the Luftwaffe, (3) antiaircraft beyond all competition, (4) tank corps, (5) large number of antitank guns, five times as many as 1914, machine guns, (6) German artillery has great superiority because of the 10.5 guns, and (7) French superiority in howitzers and mortars does not exist.

Numerical superiority, but also the value of the individual soldier is greater than for the others. I am most deeply pained when I hear the opinion that the German Army is not individually as valuable as it should be. The infantry in Poland did not accom-

plish what one should have expected from it. Lax discipline. I believe that the soldiers must be judged on their relative value in comparison with the opponent.

There is no doubt that our armed forces are the best. Every German infantryman is better than the French. Not the exhilaration of patriotism but tough determination. I am told that the troops will only advance if the officers lead the way. In 1914, that was also the case. I am told that we were better trained then. In reality we were only better trained on the drill field, but not for the war. I must pay the present leadership the compliment that it is better than it was in 1914. Mention of the collapse while storming Liege. There was nothing like this in the campaign in Poland.

Five million Germans have been called to the colors. Of what importance if a few of them disappoint. Daring in the army, navy, and air force. I cannot bear to hear people say the army is not in good order. Everything lies in the hands of the military leader. I can do anything with the German soldier if he is well led. We have succeeded with our small navy in clearing the North Sea of the British. Recognition of the small navy, especially the Commander in Chief of the Navy.

We have an air force which has succeeded in safeguarding the entire living space of the Germans.

The land army achieved outstanding things in Poland. Even in the West it was not shown that the German soldier is inferior to the French.

Revolution from within is impossible. We are superior to the enemy numerically in the West. Behind the army stands the strongest armament industry of the world.

I am disturbed by the stronger and stronger appearance of the English. The English are a tough enemy. Above all on defense. There is no doubt that England will be very much represented in France at the latest in 6 to 8 months.

We have an Achilles heel—the Ruhr. The progress of the war depends on the possession of the Ruhr. If England and France push through Belgium and Holland into the Ruhr, we shall be in the greatest danger. That could lead to the paralyzing of the German power of resistance. Every hope of compromise is childish. Victory or defeat! The question is not the fate of a National-Socialist Germany, but who is to dominate Europe in the future. The question is worthy of the greatest efforts. Certainly England and France will assume the offensive against Germany when they are armed. England and France have means of pressure to bring Belgium and Holland to request English and French help. In Belgium and Holland the sympathies are all for France and

England. Mention of the incident at Venlo—The man who was shot was not an Englishman, but a Dutch general staff officer. This was kept silent in the press. The Dutch Government asked that the body of the Dutch officer be given up. This is one of their greatest stupidities. The Dutch press does not even mention the incident any more. At a given time I shall use that to motivate my action. If the French Army marches into Belgium in order to attack us, it will be too late for us. We must anticipate them. One more thing. U-boats, mines, and air force (also for mines) can strike England effectively, if we have a better starting point. Now a flight to England demands so much fuel that sufficient bomb loads cannot be carried. The invention of a new type mine is of greatest importance for the navy. Aircraft will be the chief mine layers now. We shall sow the English coast with mines which cannot be cleared. This mine warfare with the air force demands a different starting point. England cannot live without its imports. We can feed ourselves. The permanent sowing of mines on the English coasts will bring England to her knees. However, this can only occur if we have occupied Belgium and Holland.

It is a difficult decision for me. None has ever achieved what I have achieved. My life is of no importance in all this. I have led the German people to a great height, even if the world does hate us now. I am setting this work on a gamble. I have to choose between victory or destruction. I choose victory. Greatest historical choice, to be compared with the decision of Frederick the Great before the first Silesian war. Prussia owes its rise to the heroism of one man. Even there the closest advisers were disposed to capitulation. Everything depended on Frederick the Great. Even the decisions of Bismarck in 1866 and 1870, were no less great. My decision is unchangeable. I shall attack France and England at the most favorable and quickest moment. Breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won. We shall not bring about the breach of neutrality as idiotically as it was in 1914. If we do not break the neutrality, then England and France will. Without attack the war is not to be ended victoriously. I consider it as possible to end the war only by means of an attack. The question as to whether the attack will be successful no one can answer. Everything depends upon the favorable instant. The military conditions are favorable. A prerequisite however, is that the leadership must give an example of fanatical unity from above. There would not be any failures if the leaders always had the courage a rifleman must have.

Individual acknowledgements—The enemy must be beaten only by attack. Chances are different today than during the offensive

of 1918. Numerically we have more than 100 divisions. With respect to men, reserves can be supplied. The material situation is good. Moreover, what is not ready today must be ready tomorrow. The whole thing means the end of the World War, not just of a single action. It concerns not just a single question but the existence or nonexistence of the nation.

I ask you to pass on the spirit of determination to the lower echelons, (1) the decision is irrevocable. (2) The only prospect for success, if the whole armed forces are determined.

The spirit of the great men of our history must hearten us all. Fate demands from us no more than from the great men of German history. As long as I live, I shall think only of the victory of my people. I shall shrink from nothing and shall destroy everyone who is opposed to me. I have decided to live my life so that I can stand unshamed if I have to die. I want to destroy the enemy. Behind me stands the German people, whose morale can only grow worse. Only he who struggles with destiny can have a good intuition. In the last years I have experienced many examples of intuition. Even in the present development I see the prophecy.

If we come through this struggle victoriously—and we shall come through victoriously—our time will enter into the history of our people. I shall stand or fall in this struggle. I shall never survive the defeat of my people. No capitulation to the outside forces, no revolution from the interior forces.

TRANSLATION OF DOCUMENT NOKW-2042
PROSECUTION EXHIBIT 1156

DIRECTIVE FROM NAVAL WAR STAFF TO GROUP WEST,
12 DECEMBER 1939, CONCERNING SUPPORT OF
ARMY OPERATIONS, SIGNED BY SCHNIEWIND

[Stamp] Top Secret

Berlin, 12 December 1939

Naval War Staff
B No. 1/Naval War Staff I op 470/39,
Top Secret, Matter for Chiefs

[Stamp]
Matter for Chiefs
Through officer only

[Stamp] Control No. 4
To: Group West

Control No. 1
for information: OKW (WFA/L) Control No. 2

Subject: Support of army operations

Reference: Naval War Staff I op 413/39, Top Secret
Matter for Chiefs, dated 24 November 1939

1. The Chief of Staff of the Naval War Staff having again reported to the Fuehrer, the Fuehrer has approved of surface forces of the navy carrying out mine laying operations during the night preceding A-day; but only if it appears that a general alerting of the enemy can be avoided. The operations "Wilhelm Max" (Schelde) and "Hans Max" (Helder) will be considered first of all.

2. The *tactical* moment of surprise is of greatest importance to the army's operation. Therefore operations by surface craft during the night preceding A-day have to be cancelled if because of light, moonlight, weather conditions, it can be expected that all those operations together may be recognized as mine laying operations. Furthermore, the operations are to be planned in such a way that the actual laying of mines starts shortly before dawn, under no circumstances before 0400 hours.

3. In the event that, according to Naval War Staff I op 413/39 Section 2 the operations will be cancelled during the night preceding A-day (up till 2300 hours) and postponed for several days, a second choice operation off the British coast is to be provided for instead of operation "Wilhelm Max". There will be no time limit for this operation. That is to say, it must still be possible to reach the area of the second choice operation from the 2300 hours position.

In case of a postponement of only short duration, the forces have to return with their mines and to keep ready for a repetition of the operation.

4. The instructions for the execution of operation "Max Wilhelm", as laid down in sections 5 and 6 of the directives on procedure (Naval War Staff I op 413/39), are herewith rescinded. The directives concerning operations "Ulla" and "Lucie" remain in force.

BY ORDER:

[Signed] SCHNIEWIND

PARTIAL TRANSLATION OF DOCUMENT NOKW-517
PROSECUTION EXHIBIT 1157

LETTER FROM GENERAL VON MANSTEIN, CHIEF OF STAFF OF ARMY
GROUP A, TO FIELD MARSHAL VON BRAUCHITSCH, COMMANDER
IN CHIEF OF THE ARMY, 18 DECEMBER 1939, CONCERNING
WESTERN OFFENSIVE

Copy

Chief of the General Staff of Army Group A
Ia No. 597/39 Top Secret

Headquarters, 18 December 1939
2 copies—2d copy

Proposal for the conduct of the Western offensive

I. Estimate of the enemy

* * * * *

II. Aim of operations and objectives

2. On A-day, the *German Army* supported by the entire air force crosses the Dutch-Belgian-Luxembourg border with *the aim of forcing upon the Allies a decision on land* and thereby making possible a subsequent attack on England. The operational objective is—

3. *Army Group B* (northern flank of the attack), after having occupied Holland (at first without the Fortress Holland) by part of the forces, and after rapidly breaking through the Belgian fortifications between Antwerp and Liege and south of Liege, is to *concentrate* in Belgium *north of the Meuse*, to encircle the largest possible units of the Belgian Army in Antwerp and Liege, to attack the rest as well as the onrushing Anglo-French forces, to beat them and if possible push them toward the coast in order to advance toward the lower Somme later on, thereby occupying the Belgian-French coast.

4. *Army Group A* (southern flank of the attack) has the following task: to push quickly through Luxembourg and southern Belgium in order to defeat French forces advancing across the Meuse; by forming a defensive front between Meuse (Carignan) and Moselle (Mettlach), to force the crossing over the Meuse line Dinant-Mouson (focal point at first Sedan), and by continuing the attack with one army each in a westerly and south-westerly direction to split the enemy front; and to enable Army Group North to carry out its operation and its turning against the lower Somme.

5. *Army Group C* is to hold the present front and to tie up the strongest possible enemy forces by feint operations.

* * * * *

V. Assembly

10. As, in view of the readiness of the army in the operational area for some weeks, an operational surprise of the enemy is no longer thinkable, it is at least a matter of gaining, if possible, a head-start on the Anglo-French forces by attacking at a moment most surprising to the enemy.

Therefore the army groups are to assign the infantry divisions, which are to assemble in the advance line, in such a manner that their spearheads are near the border, not much more than 30 kilometers in depth, so that they can deploy in *one night* in several marching columns.

* * * * *

VI. Air force

11. (a). In order to ensure that the *entire* air force is free to support the army on A-day, the air force has to operate to defeat the French Air Force already before the offensive on land.

On the first day of favorable weather conditions permitting a deployment of the entire forces, the air force has to attack the French Air Force and subsequently to continue the fight against the enemy air force, with deployment varying in strength and objective until the beginning of the land offensive.

* * * * *

VIII. Navy

13. It is the task of the navy to prevent the British from occupying the Dutch estuaries and ports until they are in German hands.

[Initials] v. M. [von Manstein]

Distribution:

Commander in Chief of the Army, 1st copy
Draft, 2d copy (without map)

TRANSLATION OF DOCUMENT NOKW-2720 PROSECUTION EXHIBIT 1393

TWO ENCLOSURES TO THE WAR DIARY OF THE XV CORPS COMMANDED BY HOTH: (1) NOTES ON THE PREPARATIONS OF XV ARMY CORPS FOR THE OPERATIONS IN THE WEST, SIGNED BY HOTH;
(2) LETTER FROM HOTH TO VON KLUGE ON SAME SUBJECT

The preparation of operations in the West, by XV Army Corps between late October 1939 and January 1940

1. On the basis of the first deployment orders of the 4th Army of the ensuing conferences between the Commander in Chief, 4th

Army and the Commanding General XV Army Corps, concerning deployment and tactical grouping of the 4th Army, the latter expressed his basic opinion in a communication to the Commander in Chief on 5 November 1939 (see enclosure 1).

This opinion has been submitted repeatedly to the Commander in Chief by the Commanding General, and by the Chief of Staff to that of the 4th Army, during November and December 1939. Early in January 1940, the opinion gained ground with the army to have the forces concentrated along similar lines as proposed by the Commanding General XV Army Corps (see enclosure 1), provided there was sufficient time available.

2. Apart from basic deliberations on the commitment of the army, a lively exchange of ideas about the commitment of the divisions in the sector which had been designated to the corps took place in November and December 1939.

The following problems were in question :

1. A successive deployment of the divisions, depending on the enemy situation, in particular on the existence of fortifications in the Belgian border zone, with either the Panzer divisions or the infantry divisions in the first line of attack.

2. Frontal attack of the Panzer divisions and infantry divisions combined (enclosures 2, 3, and 4).

In the second half of December, XV Army Corps gained the impression that the Belgian fortifications had reached such a stage that it would be necessary to deploy the infantry divisions first.

Until the first fortification line is completely pierced at Recht and Bockholz, they are to open the way to the Panzer divisions for the swift advance to and across the Ourthe. (Enclosure 5).

The army decided for the combined Panzer and infantry divisions, to be used on the flanks.

The orders for the deployment, assembly and attack of the XV Army Corps were changed accordingly, on 8 and 10 January 1940.

3. The further operations from the Ourthe were not decided on for the time being in so far as the advance could be made either in the direction of Huy or Dinant.

On 3 January, the Commander in Chief informed the Chief of the General Staff of the XV Army Corps (the Commanding General was on leave) that it is the Fuehrer's wish to thrust with the Panzer divisions in the direction of the Meuse near Dinant. Since then, the corps command of XV Army Corps has formed its plans in conformity with this task.

18 January

[Signed] HOTH

Jena, 5 November 1939

The Commanding General of XV Army Corps

[Handwritten] Forwarded 6 November 1939 by Lt. Col. Count v. Baumke

My dear General:

You were kind enough to listen to my explanations when the commitment and the formation of the army were discussed even where my reports exceeded the compass of my army corps. I therefore feel the urge and believe to be duty-bound to state once more my opinion about the deployment of the Panzer divisions after I have carefully considered all maps which are available at present, all descriptions of the terrain which are on hand, and all the information about the enemy which has been received so far.

The swift breakthrough to the Ourthe has been set as the target for the Panzer divisions by the Commander in Chief of the Army. This river must be crossed already on the first day, if possible, if there shall be hope of effecting the crossing unimpeded by French forces. This leads to the conclusion that the Panzer divisions must be deployed where they will find the best roads, the least difficulties in the terrain, the weakest resistance by enemy fortifications, and finally, the shortest way to the Ourthe.

The sector allotted to XV Army Corps does not offer space enough for a parallel deployment of two Panzer divisions as desired by the Commander in Chief of the Army. One of the two divisions would be held up in the Salm district at the latest and would have to wait for infantry divisions.

The deployment of the 5th Panzer Division, as planned in the sector of the VIII Army Corps, likewise, of necessity, leads to the Salm district whose terrain is particularly rich in difficulties. I hold it to be impossible that this district, even if only weakly defended, can be passed by the 5th Panzer Division with such a swiftness, that the Ourthe can be reached in time. There is small hope, therefore, for the cooperation of the 5th and 6th Panzer Divisions in the Salm district.

Much more favorable for the speedy advance of motorized divisions are the conditions between the Upper Salm and the Upper Ourthe, meaning beyond the line between Bockholz and Lamorchon in the direction of Lierneux (6th Panzer Division) and Samree (7th Panzer Division). This advance route runs nearly parallel to the rivers which come from the Ardennes and therefore crosses only few valleys; the opposing rear fortifications can be circumvented. The advanced line of fortifications can be pierced by the two Panzer divisions in concerted action. The

road conditions are favorable; apart from the main roads of advance namely—for the 6th Panzer Division the road St. Vith-Bowies-Lierneux-Grandmenil-Durbuy, and for the 7th Panzer Division the road Chateau Roulard-Beslingen-Cherain-Wibrin-Samree-Soy-Hotton—there are good secondary roads for diverging movements and for the deployment of the long columns. Both divisions would be commanded uniformly by the XV Army Corps.

The advance would be speeded up if it is not started from the bulge on both sides of Manderfeld which recedes farthest to the east, but more in the south from Winterscheid and Leutzkampen.

The 62d Infantry Division would form the second line and advance via St. Vith-Vielsalm, unless put under the command of the II Army Corps from the very outset.

I hope, Sir, you will not take amiss the frank statement of my opinion which has been only caused by the heavy care about the success of the operation and by the sincere endeavor to use the Panzer divisions to the best possible effect.

With the expression of my unlimited confidence in your person I am, sir,

Yours very obediently
[Initial] H. [Hoth]

[Handwritten] To General von Kluge,
Commander in Chief of the 4th Army,
Cologne

PARTIAL TRANSLATION OF DOCUMENT NOKW-2311
PROSECUTION EXHIBIT 1162

EXTRACTS FROM WAR DIARY OF THE NAVAL WAR STAFF FROM
1-31 JANUARY 1940, CONCERNING OPERATION "YELLOW"

12 January * * *

Special Matters

Document relating to, "Operation Yellow", with the final decision of the Fuehrer has been received from the OKW (see letter-OKW, dated 11 January). The oral instruction of 11 January evening is confirmed.

"Code word B. No. 51—Time 0816"

In accordance with instructions given, the measures of the navy can be put into operation even shortly *before* they are begun generally. The time 0500, is considered good enough by the Naval War Staff. Chief of Naval War Staff agreed to the putting into effect of *all* measures provided for. The supply of torpedo-submarines will be increased as far as possible.

* * * * *

24 January.

II. In order to free all forces as far as possible from obligation for certain duties and to gain greater operational freedom, a new instruction is issued by the Naval War Staff to Group West and commander of submarines for "Case Yellow", (see War Diary Part C volume II "North Sea").

Special matters—As a result of continuing unfavorable weather conditions the date continues to remain open. Should the enemy assume the initiative by crossing the Belgian border or establishing himself in the Dutch coastal area, it may be necessary to put our own measures into operation at short notice. Previous preparations continue. It must be possible to carry out measures of surface naval forces with center Schelde [Scheldt] in the least possible time. Next most important mine-laying objective Texel River-den Helder.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-511
PROSECUTION EXHIBIT 1160

MEMORANDUM FROM ARMY GROUP A, 12 JANUARY 1940, CRITICISING PLANS FOR THE WESTERN OFFENSIVE, AND REPLY FROM THE COMMANDER IN CHIEF OF THE ARMY, 16 JANUARY 1940

Copy of Copy

Army Group A
Ia No. 20/40 Top Secret

12 January 1940
4 copies—3d copy

[Stamp]

Matter for Chiefs
Through officer only

The Western Offensive

The army group hereafter once more submits its decisive opinions relative to the *execution* of the operations in the interest of a direction of the western offensive towards final decision on land.

The Commander in Chief,
Signed: VON RUNSTEDT

I. *The operational objective of the western offensive.*

The objective set for the offensive is decisive for the over-all operation as well as for the operation of the army groups. According to the view of the army group it must consist of *the bringing*

about of the decision in a conflict on land, the smashing of the Allied defense power on land and in the air, the elimination of the English foothold on the continent, whereupon the attack on England proper by air and sea can follow as the second phase.

Partial objectives such as were first set up in the orders of the OKH in autumn, for instance the overwhelming of enemy forces as strong as possible in Belgium or in northern France, the reaching of the Belgian coast, are not proportionate to the political encumbrance developing out of an attack on these neutral states, nor does the setting of a goal so limited from the beginning justify the gambling with the *attacking power* of the army and the air force. For the attacking power is the decisive factor also in this war, and while it is consumed in nondecisive battles, it cannot be replenished in short time. We may perhaps have to content ourselves with the attainment of such partial objectives—should the offensive not be a complete success as expected—however, not to designate as objective right from the beginning the *complete* decision on land, is tantamount to giving up striving for a rapid conclusion of the war.

* * * * *

The Commander in Chief

Signed: VON RUNSTEDT

Berlin, 28 July 1942

Certified true copy:

[Signed] KOEHLER

Colonel

Copy of Copy

The Commander in Chief of the Army
Gen. Staff of the Army Op. Section (Ia)
No. 045/40 Top Secret

Headquarters High Command of the Army, 16 January 1940
2 copies—1st copy

Reference: Army Group A Ia No. 20/40 Top Secret of
12 January 1940

Subject: Deployment Directive, "Yellow".

To: High Command Army Group A

The assumption that, with the planned attack, only a "partial goal" is striven for, is not warranted. The intention only to lay down the basis for the first act of the attack as a whole by means of deployment directive "Yellow" can be seen from number (1) of this order.

The subsequent determination of goals will follow in due time. Provisions have been made for the commitment of an additional army and for the addition of further forces to Army Group A, as has already been announced earlier. I must reserve to myself the right to set the date.

The final decision relating to the formation of the point of concentration rests with the Supreme Commander of the Armed Forces, in order to establish complete agreement between the operational measures of the *air force* and the operations of the ground forces. This decision shall take place upon my recommendation.

Hence there is no reason for submitting draft made by the army group, which coincides in the significant ideas with my conception, to the Supreme Commander of the Armed Forces.

Signed: VON BRAUCHITSCH

Distribution:

High Command of the Army Group A, copy 1
General Staff of the Army, copy 2

Berlin 23 July 1942

Certified correct copy:

[Signed] KOEHLER
Colonel

PARTIAL TRANSLATION OF DOCUMENT NOKW-2269
PROSECUTION EXHIBIT 1163

DIRECTIVE OF NAVAL WAR STAFF TO NAVAL GROUP WEST,
24 JANUARY 1940, INITIALED BY DEFENDANT SCHNIEWIND

[handwritten]

I op 91/40

[Stamp] Top Secret

Matter for Chiefs

Berlin, 24 January 1940

[Stamp]

Order

Matter for Chiefs
Through officer only

Letter to Group West, [in handwriting] Control Number 1

For information to:

Commander of U-boats,
Operations section [in handwriting] Control Number 2

[Handwritten]

Dispatched on 25 January

[initial] P. 25 January

Subject: Support of Army operations. (In the future referred to as "Case Yellow.")

Reference:

- (1) Naval War Staff I op 327/39, Top Secret Matter for Chiefs dated 30 October 1939.
- (2) Naval War Staff I op 413/39, Top Secret Matter for Chiefs dated 24 November 1939.
- (3) Naval War Staff I op 470/39, Top Secret Matter for Chiefs dated 12 December 1939.
- (4) Naval War Staff I op 44/40, Top Secret Matter for Chiefs dated 13 January 1940.

I. Due to the continued unfavorable weather, the time for the beginning of the operations has not yet been set.

II. In case the enemy seizes the initiative by crossing the Belgian frontier or by establishing himself in the Dutch coastal area, countermeasures of our own may become necessary upon short notice.

* * * * *

Chief Naval War Staff [Initial] S. [Schniewind] 25 January
1st Section, Naval War Staff—[Illegible initial] 25 January
Ia—[Illegible initial] 25 January
Io—[Illegible initial] 25 January

PARTIAL TRANSLATION OF DOCUMENT NOKW-621
PROSECUTION EXHIBIT 1161

ENCLOSURE TO INSTRUCTIONS CONCERNING WAR GAME
"YELLOW", AND EXTRACT FROM LIST OF PARTICIPANTS,
DISTRIBUTED BY ARMY GROUP A ON 20 JANUARY 1940

Enclosure Red

[Stamp] Top Secret

Enclosure to Army Group A, Ia No. 136/40

Top Secret dated 20 January 1940

[Handwritten] Control No. 1

*Directives of the Supreme War Council of the Allied Powers for
Land Warfare*

1. The French and British Governments are agreed that a decisive offensive on land *on the initiative of the Allied Powers* can

be considered only after the mobilization of the French and English Air Forces and of the English Army is completed, and that until then the fighting potential of the French Army should be spared as far as possible.

2. England and France promised *immediate effective* aid on land, in the air, and on the sea to Holland and Belgium in the event of a German attack.

3. In the interest of air and sea warfare the British Government considers it of paramount importance that the Dutch-Belgian coast should not fall into German hands. The French Government has agreed.

4. Accordingly, the Allied Supreme Commander, in the event of a German attack on Belgium or Holland, must as speedily as possible aid these states with adequate forces with the aim of preserving the military forces and material means of these countries for the Allied warfare and of shifting their own air bases as close as possible to the German territory.

In the event of a "Blue" attack, Lt. General of Infantry Busch is requested to issue brief instructions to the French commander in chief of the northeastern front on the conduct of operations by 24 January. He is to send one copy each to the leaders assigned to the "Red" side. These are requested to remit (by 28 January, to the army group command) their ensuing orders (in telegram style).

The starting position of "Red" is to be based on the situation map West dated 17 January 1940 (enclosure 2a and b. Estimate of Strength enclosure 1 to Situation Report West No. 184). The movements of the Belgian divisions reported in Situation Reports 184 and 185 are also to be taken into account.

* * * * *

List of the participants in the War Game, "Yellow", on 7 February 1940

* * * * *

18. Lt. General (Air Corps) Sperrle

* * * * *

The Liaison Officer of Air Fleet 3 with Army Group A.

Participants of Air Fleet 3 in the War Game on 7 February 1940

Air Fleet Command 3, Lt. General (Air Corps) Sperrle.

* * * * *

TRANSLATION OF DOCUMENT NOKW-2710
PROSECUTION EXHIBIT 1394

REPORT FOR WAR DIARY OF THE XV CORPS COMMANDED BY
HOTH, 30 JANUARY 1940, CONCERNING OBJECTIVES
OF UNITS IN CASE "YELLOW"

For War Diary

In the course of a conference, which the Commander in Chief of the Army held, with the commanding generals on 30 January 1940, about the alterations of the objectives of the army, made necessary by the fact that the Panzer divisions will form the first line of attack, the Commanding General of the XV Corps stated his opinion as follows:

"In consideration of the present situation of the enemy, it can be expected that the 6th Panzer Division reaches the Ourthe still in the night between the 1st and 2d day of the attack. Irrespective of whether French forces have already arrived at the Ourthe at that time or not, the Ourthe crossing will be forced on the second day.

"As regards the next target of the corps, namely the advance up to Dinant, the units of the 6th Panzer Division alone do not seem to be sufficient for this purpose, if we take into consideration that it will be necessary to protect both flanks and that, in all probability, advanced French forces will have to be beaten. Only if the 7th Panzer Division can advance at the same time as the 6th Panzer Division, will there be hope that the advance to the Meuse will be successful. The 5th Panzer Division cannot be counted on already on the 2d day.

"For being able to join the advance movement of the 6th Panzer Division west of the Ourthe on the 2d day, the 7th Panzer Division should have overcome the fortifications north of Houffalize by the afternoon of the 1st day of the attack at the latest. Its weak spearheads alone will not be sufficient for this purpose, especially as they will meet with difficult terrain just west of the Aur, south of Chateau Roulard. In order to make the bulk of the 7th Panzer Division arrive at Houffalize in time, e.g., at noon of the 1st day of attack, it will be necessary to grant it the temporary use of the large road via Chateau Roulard, if the southern roads should prove impassable."

Contrary to the intention of the Commanding General of the II Corps to have the 7th Panzer Division advance across the Ourthe SW of Nadrin and in the direction of Ourthe, the Commander in Chief stressed the necessity of the 7th Panzer Division keeping

closer to the 6th Panzer Division, and, therefore, of advancing east of the Ourthe, in the direction of perhaps Laroche.

30 January

Miscellaneous

[Initial] H. [Hoth]

- a. Panzer Divisions must rush on. Keep moving.
Road obstacles. Engineers to dismount from their vehicles.
- b. Artillery must not bombard cities, churches, and similar buildings. Living targets. Munition.
- c. Enemy air force rather difficult to hit.
Antiaircraft protection by machine guns.
- d. Vehicles must not close up.
- e. Will the population fight?
- f. Looting.
- g. New formation.

PARTIAL TRANSLATION OF DOCUMENT NOKW-3140
PROSECUTION EXHIBIT 1359

EXTRACTS FROM DIARY OF GENERAL HALDER,
DECEMBER 1939-MARCH 1940

* * * * *

20 December 1939, *Commander in Chief of the Army. a.* * * *

b. Outcome of conference Fuehrer and *Rundstedt*—Hold forces ready for build-up of main effort in Army Group A. “Does Army Group A have a double mission?” Get *Rundstedt* here *Friday* or, if possible, *Thursday*. (Instruct Central Branch.) Subject for conference: Operational intentions, divergencies. *Guderian* at Sedan is not strong enough for any major blow. Make sure roads can carry necessary supply (Map by *Wietersheim*).

* * * * *

23 December 1939, *Conference with Gen. von Rundstedt.*

1. Proposal to shorten period for build-up of front.
2. Operational intentions—Larger and limited objectives. *von Rundstedt* asserts that main concentration of IV Army is directed against *Huy*, very little against *Givet*. Wants a drive on *Rethel* [?] to deter enemy to attack from south. (But this is an entirely different operation!)

* * * * *

7 January 1940, *Keitel* (OKW) [calls]. a. * * *

b. Question of Gestapo and Police for West not yet taken up

with Fuehrer. An understanding will be arranged with Minister of Interior.

c. Send over soon, documentation on Spicherer Hoehen [Spichern Heights].

* * * * *

12 January 1940, Greiffenberg.

Case of the fliers landed in Belgium on 11 January. We must assume that at least a part of the documents are by now in the hands of the Belgians. What material is now in their hands. Fuehrer has reserved decision. Should location of command posts be changed?

* * * * *

17 January 1940, Liss.

Belgian alert in Eben-Emael area and west of Maastricht; Dutch preparations for demolitions in Maastricht. *Talk with Salmuth* on effects of these Belgian measures, and effects on Fortress Holland. Transmit to Chief Op. Sec. to pass them on to air force and OKW.

* * * * *

19 January 1940, Personnel matters.

a. For new Corps Hq.—Geyer, Manstein. Replace Geyer with Stuelpnagel (IX Corps will soon be relieved).

b. OQu I—von Sodenstern.

c. Chiefs of staff for army groups—B, von Salmuth; A, Felber; C, Mieth; East, Hansen.

d. Chiefs of staff for armies—Sixth, Paulus; Fourth, Brennecke; Second, Hilpert; Eighteenth, Marcks; Seventh, Fischer; Twelfth, Mackensen; Sixteenth, Model; First, Konrad.

e. Chief of staff for corps—Siewert.

* * * * *

22 January 1940 0900

Conference with operations officers (Ia) of army groups and armies on new intentions.

* * * * *

25 January 1940—Conference at Hq of Army Group A.

* * * * *

1 February 1940, Warlimont.

1. Holland. "Armed protection of Dutch neutrality." Kiewitz.
2. Supervision after surrender.
3. Doorn. "Emperor will be brought salutations and given assurance that everything remains unchanged."
4. Shift of Hq to H. Commander in Chief of Army is requested to inform Fuehrer when he wants to effect transfer. (Wants to await convenience of army. Perhaps undesirable on first day.
5. Reequipping of tanks with 4.7 cm. guns.

* * * * *

3 February 1940, von Greiffenberg.

Data needed for conference with Manstein.—SS Div. in Army Group B is too far in the rear.

* * * * *

18 February 1940, 1200 Fuehrer Conference.

Introductory. Primary idea is to break through enemy front between Liege and Maginot Line. Drawback is squeeze in constricted space between "Fortress Belgium" and Maginot Line. It was therefore advisable to consider extension of initial drive north of Liege in order to gain wider frontage. The basic plan here was to form main concentration on, southern wing and to make Antwerp instead of Liege the pivoting point for the big wheeling operation. Now we have reverted to the original plan.

Discussion of plan. 1. The element of surprise now may be regarded as assured. Our regroupings in the first 10–14 days were in part known to the enemy. This is an indication that the leak was all the way back in Berlin. The enemy will find means to keep a closer watch on the border areas.

2. *Enemy offensive.* There are no clear indications whether (a) the enemy takes the offensive automatically on receiving word that we have crossed the border; (b) the signal for the offensive, which surely has been carefully prepared, will be given by the French High Command; (c) the signal will be given by the French Government.

It may be taken for granted that all details of the offensive are decided upon and translated into tactical terms, with the troops however having no freedom of action; most likely, decision is reserved to High Command or Government. In terms of the French setup this means a loss of time of at least a half day.

Some people believe that the French plan is to let the Germans burn themselves out in Belgium and then have them come up against the French northern front.

3. Our objective therefore must be to get behind the fortifications line in northern France right at the start.

* * * * *

It is interesting to note however—

1. He reserves decision on moves following crossing of Meuse.

2. He still banks on the chance that the French and British will remain passive in the face of our march into (Belgian-Dutch) territory.

3. He plays with the idea that a mere nicking of the enemy forces will suffice to break their opposition.

* * * * *

27 March 1940, 1415-1730.

Fuehrer Conference (Present von Leeb, von Witzleben, Gen. Dollmann, Gen. Felber—CinC of army, and myself.)

1. Gen. Obst. von Leeb talks on—*a.* General situation. Tactical doctrine of French and German troops.

b. Construction of fortifications, with special emphasis on fact that steel must not be stinted at the weak spots on both sides of Saarbruecken. Fuehrer interjected here that his desire to have the main battle position on the commanding ridges on the southern bank of the Saar River was frustrated only by the outbreak of the war.

c. Diversionary attack “Yellow”. Here the assertion is made that diversionary attacks must not be initiated on the Rhine front because of the subsequent attack at the Upper Rhine. Closing of Swiss border is discussed. Owing to coal shipments to Italy, the border cannot be closed before the actual start of the attack. (Check with Op. Sec.) The question of an alternative route for coal shipments will be studied (check with Gercke).

d. Attack “Green”.

2. Gen. von Witzleben talks on Operation “Yellow”. Report is accepted without discussion. In the subsequent discussion on construction of fortifications, the Fuehrer lays great stress on artillery emplacements. (See Jacob about it.)

3. Gen. Dollmann speaks briefly on situation at Seventh Army, stressing its deficiencies. Outlines three crossing operations within Operation “Yellow” (check Op. Sec.).

4. After that, the Fuehrer speaks about the general situation, but without mentioning the operation planned at the Upper Rhine ("Brown"). He stresses his confidence in Mussolini who, owing to the weakness of his army, could not come in before France had been dealt a critical blow.

As regards the situation in the East, he seems to be keeping a wary eye on developments. France's actions to force a break with Russia are obviously much to his liking. He is pleased with the recall of the Russian Ambassador from Paris.

In conclusion he expresses his satisfaction with the good use made by the army of the enforced idleness in the past half year, and pays tribute to the preparations completed in that time; they inspire confidence in full success. (Never, since 1870, has the military and political power position been as favorable as the present one.)

* * * * *

31 March 1940, 0930.

Conference with Gen. von Leeb (Frankfurt)—

a. Date set for operation "Yellow".

b. Discussion on operation "Brown". I favor a push from the north; an attack along the sector north of Strasbourg appears less promising to me.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2588
PROSECUTION EXHIBIT 1555

LIST DISTRIBUTED BY GENERAL HALDER, 2 FEBRUARY 1940,
OF ARMY OFFICERS PARTICIPATING IN OPERATIONAL
PLANNING AND MEASURES

[Stamp] Top Secret

The Chief of the General Staff of the Army
No. 12/40 Top Secret, Chief General Staff of the Army

HQ, OKH, 2 February 1940

2d copy

[Handwritten] Ia 3 Feb [Illegible initial]

Subject: Drafting of operational measures.

In the sphere of the army, the officers listed on the attached roster are without limitation participating in operational plan- nings and measures.

1 Enclosure

[Signed] HALDER

[Handwritten] *2d Army Command*
Ia 21/40 Top Secret
Matter for Chiefs
[Initial] BE.

Distribution:

Chiefs of the Gen. Staff of the Army Groups
Chiefs of the Gen. Staff of the Armies (except the 7th)

OKH:

Adj. CinC Army
Adj. Chief Army Gen. Staff
O.Qu.I
Chief G Z
Chief Op. Section
Chief Org. Section
Chief Transportation Section
Gen. Qu.

For information:

Reich Minister for Aviation and Commander in Chief Air Force
(Chief of the Gen. Staff of the Air Force)

Encl. to Chief of the Gen. Staff of the Army
No. 12/40 Top Secret, 2 February 1940.

1. *High Command of the Army:*

Gen.	v. Brauchitsch	Commander in Chief of the Army
Lt. Col. (GSC)	Siewert	1st Gen. Staff Off.
Lt. Gen. (Art.)	Halder	Chief Army Gen. Staff
Capt. (GSC)	Nolte	1st Adjutant
Lt. Gen. (Inf.)	v. Stuelpnagel	O.Qu.I
Lt. Col. (GSC)	v. Ziehlberg	Central Sec.
Col. (GSC)	v. Greiffenberg	Chief Op. Sec.
Lt. Col. (GSC)	Heusinger	Ia Op. Sec.
Lt. Col. (GSC)	Winter	Group Chief, Op. Sec.
Col. (GSC)	Buhle	Chief Org. Sec.
Brig. Gen.	Gercke	Chief of Transportation
Lt. Col. (GSC)	Bork	Chief horse-drawn supply Sec.
Brig. Gen.	Mueller	Gen. Qu.
Col. (GSC)	Wagner	Chief of Staff of Gen. Qu.
Lt. Col. (GSC)	Weinknecht	1st Gen. Staff Off. Gen. Qu.

2. *Outside Agencies:*

Gen.	v. Rundstedt	Commander in Chief, Army Group A
------	--------------	----------------------------------

Maj. Gen.	v. Manstein	Chief Gen. Staff, Army Group A
Col. (GSC)	Blumentritt	1st Gen. Staff Off., Army Group A
Lt. Gen. (Cavalry)	Frhr. v. Weichs	CinC, 2d Army
Maj. Gen.	Felber	Chief Gen. Staff, 2d Army
Col. (GSC)	Schilling	1st Gen. Staff Off., 2d Army
Gen.	List	CinC, 12th Army
Maj. Gen.	v. Mackensen	Chief Gen. St., 12th Army
Lt. Col. (GSC)	Kuebler	1st Gen. Staff Off., 12th Army
Lt. Gen. (Inf.)	Busch	CinC, 16th Army
Brig. Gen.	Model	Chief Gen. Staff, 16th Army
Lt. Col. (GSC)	Boekh-Behrends	1st Gen. Staff Off., 16th Army
Gen.	v. Bock	CinC, Army Group B
Maj. Gen.	v. Salmuth	Chief Gen. Staff, Army Group B
Col. (GSC)	Hasse	1st Gen. Staff Off., Army Group B
Gen.	v. Kluge	CinC, 4th Army
Brig. Gen.	Brennecke	Chief Gen. Staff, 4th Army
Col. (GSC)	Wuthmann	1st Gen. Staff Off., 4th Army
Gen.	v. Reichenau	CinC, 6th Army
Brig. Gen.	Paulus	Chief Gen. Staff, 6th Army
Lt. Col. (GSC)	Frhr. v. Bechtolsheim	1st Gen. Staff Off., 6th Army
Lt. Gen. (Art.)	v. Kuechler	CinC, 18th Army
Brig. Gen.	Marcks	Chief Gen. Staff, 18th Army
Lt. Col. (GSC)	Schmidt	1st Gen. Staff Off., 18th Army
Gen.	Ritter von Leeb	CinC, Army Group C
Maj. Gen.	v. Sodenstern	Chief Gen. Staff, Army Group C
Col. (GSC)	Mueller (Vincenz)	1st Gen. Staff Off., Army Group C
Gen.	v. Witzleben	CinC, 1st Army
Brig. Gen.	Mieth	Chief Gen. Staff, 1st Army
Col. (GSC)	Harteneck	1st Gen. Staff Off., 1st Army

PARTIAL TRANSLATION OF DOCUMENT NOKW-2713
PROSECUTION EXHIBIT 1396

ORDER OF XV ARMY CORPS, 16 MARCH 1940, FOR THE ATTACK
ON BELGIUM, SIGNED BY DEFENDANT HOTH

Corps HQ XV Army Corps
Section Ia No. 76/40

Top Secret

Corps Headquarters, 16 March 1940
9 copies—9th copy

Through officer only!

Corps Order for the Attack

I. Enemy.

1. *Weak enemy forces* (elements of the Ardennes Light Div.) with little artillery are deployed in the sector of the XV Army Corps in the *advanced Belgian line of fortifications* near Bockholz, in the *Salm sector* (fortification group Vielsalm) and in the *Lienne sector* (fortification group Baraque de Fraiture). These forces will offer a short resistance in the new Belgian territory, then exploiting the numerous obstacles, will evade in the direction of the Ourthe River by fighting a delaying action. The 1st Belgian Cavalry Division has taken up defense positions along the Ourthe River. Moreover, mobile French forces must already be expected here. Strong French forces will take part in the fighting at the Meuse River at the latest.

* * * * *

12. *Border guard*—In cooperation with the customs offices, the border guard regiments assigned in the sector of the corps, continue to be charged with the security of the border in their sectors.

After the attack has begun, it is the task of the border guard to effect a police and customs control in both directions and to maintain security in their sectors.

13. Measures must be taken in order to guarantee at all events the *orderly handing over of indigenous installations*.

* * * * *

V. Three cases must be differentiated for the *deployment and the preparation for the attack, namely, (a) the A-case*.

16. In the A-case two nights are available for the deployment and preparation after the issuance of the order.

17. The A-case will be initiated by telephoning the code word "Erika" (see Corps HQ XV Ia/operation 62/40 Top Secret of 24 February 1940).

18. The movements in the A-case are to be carried out in accordance with enclosure 1.

19. *Combat Posts*—

62d Inf. Div.—Beginning on A-day minus one, at 1000 hours, in Frauenkron; on A-day in Losheim estate (to arrive there with the beginning of the attack only).

5th Panzer Div.—In the night of A-day minus one in Mosshaus; on A-day in Wischeid (to arrive there with the beginning of the attack only).

Corps headquarters—A-day minus one at 1400 hours in Dahlem and/or Simelerhof.

Corps command post—A-day minus one in Kobscheid (3km east of Auw). Beginning A-day minus one, 0800 hours, Schmidtheim and Blankenheim must be kept free for other staffs, beside Dahlem and Kobscheid.

* * * * *

(b) *The S-case*—*

22. In the *S-case*, the order for advancing across the border will be given to the divisions by telephone with the code word "Hermann," in the course of the afternoon of *the preceding day* (A-day minus one) (see Corps HQ XV Ia/Operation 61/40 Top Secret of 24 February 1940).

* * * * *

(c) *The SS-case*—

23. In the *SS-case*, the order will be given on the preceding day (A-day minus 1) early enough so that an advance across the border *on the same day* can be expected to be successful. In this case, the code word "Double Hermann" will be transmitted by telephone (see Corps Hq. XV Ia/Operation 61/40 top secret II topic of 15 March 1940).

Upon receipt of the code word for the *SS-case* (Double Hermann) *all* units of the army and of the air force are *free* to cross and fly over the Reich border *without* any deadline and, therefore, also the immediate removal of obstacles, construction of bridges, and the rushing forward of combined arms units.

* * * * *

VI. *Camouflage of the deployment*—In order to camouflage the deployment, all the movements must begin after darkness only

* For explanation of term "S-case", see extracts from testimony of defendant Hoth, below in this section.

and must be concluded in such a way that the concentration cannot be observed by the enemy from daybreak until X-hour.

All movements within view of the enemy are prohibited after daybreak.

* * * * *

VIII. *Secrecy.*

31. Details of the foregoing order may be forwarded by the 62d Infantry Division and the 5th Panzer Division only to such regiments and independent detachments which have been designated to cross the border first, and then only to such an extent as relates to the tasks in question for these units.

32. The orders may be handled and written *by officers only*. The special secrecy must be pointed out to them beforehand.

[Signed] HOTH

PARTIAL TRANSLATION OF DOCUMENT NOKW-250
PROSECUTION EXHIBIT 1165

INSTRUCTIONS REGULATING TRANSBORDER TRAFFIC AND COMMUNICATIONS BEFORE "CASE YELLOW," 27 MARCH 1940,
SIGNED BY DEFENDANT WARLIMONT

Berlin, 27 March 1940

High Command of the Armed Forces
Armed Forces Operational Office

Department L [National Defense]
Foreign Counterintelligence

15 copies—9th copy

No. 22116/40, Top Secret Matter for Chiefs

Top Secret

[Stamp] Top Secret
Through officer only

Subject: Closing of border before "Case Yellow"

Reference: Consultations at Department L [National Defense].

Troop movements in the border area which indicate an imminent attack, will not take place before 2000 hours on the day preceding the attack. The following regulation applies concerning the closing of the *Dutch-Belgian-Luxembourg* frontier:

A. *Communications*

1. In the areas of the Reich Post Directorates of Oldenburg, Muenster, Duesseldorf, Dortmund, Aachen, Cologne, Koblenz, Trier, Frankfurt on Main, Saarbruecken, Speyer, Karlsruhe, and

Stuttgart, the long distance telephone is restricted from 2000 hours until 0700 hours effective *immediately*. Permission to put through calls during these hours is granted only to those authorities, persons or firms, that can be considered especially reliable.

Foreign consuls retain permission for the time being.

2. In the night preceding A-day, the consuls of all foreign powers in the above-mentioned area will be deprived of external and internal long distance telephone facilities.

This measure is to be carried out as follows:

The competent telephone offices will receive a list of the telephone numbers of all foreign consuls. No incoming or outgoing connections may be made for these from 2000 hours until 0700 hours. Local calls will be permitted.

Bookings for internal and external connections, however, are to be accepted by the offices. If the caller inquires concerning his connection, he must be given only evasive replies as for instance, "party does not reply," "the requested line is busy," or "there is a delay because of overwork."

The censorship offices note on the call register what information is to be given to the inquirer. Repeated inquiries must be answered logically.

The implementation is secured largely by intelligence officers, only in a few telephone offices is it in the hands of the supervisors of the German Reich Post.

3. Furthermore, the most important foreign diplomatic representatives in *Berlin* are not to be reached by internal telephone during the night before A-day. Local and external telephone communications, however, are to remain free. Delay in external communication is possible.

Investigations as to the practicability of the planned measures are still being made by the Reich Post Ministry.

B. *Border crossings*.—During the closing time (2000 hours to 0700 hours) the frontier will be barred for passage. On the suggestion of Intelligence III, the Reich Leader SS and Chief of the German Police advised the frontier state police stations that they may not grant permission for crossing the border even in emergencies.

Exceptions

1. *Foreign workers*—A special regulation exists for about 600 Dutch workers, employed in a textile factory in Nordhorn. They are permitted to cross the border between 2130 hours and 2200 hours and to return to Holland between 0500 and 0600 hours. This regulation holds good even in the A-1 night. If necessary, the

High Command of the Army (OKH) will see to it that the return of the workers on A-day is delayed.

2. *Diplomats*—In future, diplomats and couriers may cross the border only after previous inquiry at the High Command of the Armed Forces, Counterintelligence III. Counterintelligence III then informs the competent intelligence office of the imminent border crossing, after first checking with the High Command of the Army. Applications for the night before the day of attack must be delayed.

C. *Treatment of foreign officials and personnel on German soil.*—The OKH arranges possible measures necessary for the arrest of foreign post, railway, customs, and police personnel, etc., on German soil.

D. *Navigation on the Rhine.*—The former time limit for navigation on the Rhine (2000 hours to 0700 hours) have been shortened by request of the High Command of the Army. It starts in the evening, one hour after sunset and ends one hour before sunrise. The relevant directives have been issued by the Reich Ministry of Transport, the Reich Ministry of Finance, and the Reich Leadership SS.

E. *Railway traffic.*—The OKW Counterintelligence III has sent directly to the Operational Department a specification of the passenger and freight trains crossing the border during the closing time. The OKH in cooperation with Intelligence checks up on the passengers boarding the trains within the area of operation.

F. *Vehicle traffic.*—There will be no motor vehicle traffic between the closing time limits, with the exception of two cars of the "Koelnische Zeitung," which cross the border at Kaldenkirchen or Herbesthal at 0500 hours.

(Regulation on A-day by OKH).

The Chief of the High Command of the Armed Forces

BY ORDER:

[Signed] WARLIMONT

Distribution:

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Department L [National Defense]

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* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS
FRANZ HALDER*

DIRECT EXAMINATION

* * * * *

DR. LATERNER (counsel for defendant von Leeb): What thoughts did the High Command of the Army have at the conclusion of the Polish campaign with regard to the further waging of the war?

WITNESS HALDER: The Army High Command wanted the war declared upon us by the Western Powers, to be carried on defensively in the West and on these lines the whole regrouping of the forces was made from the east to the west only under the heading of "defense."

Q. What then were Hitler's intentions?

A. Immediately after the Polish campaign this question came up in general for the first time and then Hitler stressed that the conflict in the west must be carried on offensively. This short conference took place in the second half of September, and the tension which immediately arose after it led to the fact that Hitler broke off the discussion.

With regard to the defensive waging of the war in the West, the ideas on this subject held by the General Staff were set down in a memorandum which at my instigation was worked out by General von Stuelpnagel who was later on murdered by Hitler. This came into the hands of the Armed Forces Operations Staff and led to the fact that after various short conversations during which, contradicting opinions were expressed between von Brauchitsch and Hitler, at the beginning of October, Hitler issued a memorandum to General von Brauchitsch, the Commander in Chief of the Army, in which he made it quite clear that a defensive solution did not come into the question at all; and in which he set down the reasons for an offensive solution. It was, therefore, an official order.

Von Brauchitsch thereupon turned his thoughts to another method of warfare. To try to convince Hitler on our lines came

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948; pp. 1817-1864, 1867-2155.

no more into the question. In my so-called diary there is somewhere an entry set down during these days which stated that there was no longer any prospect of being able to convince Hitler. We, therefore, tried to postpone the attack as far as possible in the hope that principally political possibilities in this period would have an effect.

With regard to this subject, various reports by the Commander in Chief of the Army were made to Hitler and the mutual tension increased. This tension then was shown by the fact that later on Hitler simply did not receive the Commander in Chief of the Army anymore. The tension was so extended that on 5 November, Brauchitsch once again submitted all those ideas which asked for and made it necessary for the attack to be postponed for some time longer.

I want to correct myself. He didn't report this, but he wanted to report this because the report was interrupted by a dramatic scene in which Hitler, when he realized what Brauchitsch was getting at, absolutely dismissed any kind of social feeling and courtesy.

The Commander in Chief came back enormously excited from this discussion, and for two weeks he no longer reported orally to the Fuehrer. The result of this discussion and the high tension which resulted from it was the conference which took place about three weeks later, on 23 November, which Hitler held with the army group and army commanders participating in the Western Campaign.

Q. General, I have just an intermediate question here. At the end of the Polish campaign, was there already in existence a plan or an aggressive plan against the Western Powers?

A. No, with regard to the West there was no plan at all in existence, and for the transfer of the forces from the East to the West a defensive plan was drawn up.

Q. And that was the only thing which the General Staff prepared?

A. Yes.

Q. And this speech of Hitler, on 23 November 1939, was mentioned by you. Who took part in this conference?

A. Apart from the people who had to take part in it, the people from the OKW and the Army High Command, the experts, there were also the commanders in chief of the army groups and the armies in the West.

Q. And what did Hitler say?

A. The contents of his speech, in my opinion, were ruled by the following ideas: First of all, the necessity—

Q. General, you must speak a little bit slower. Otherwise the translation doesn't come through completely.

A. The one idea was the necessity for the armed conflict in the West to be carried out offensively by the German side. For this a number of reasons were given, among which a large part was played by the securing of the Ruhr area against enemy air attacks, but the idea was also present that Germany could never know how long the friendly relations with the East could be maintained. Another part was the refuting which—

Q. General, might I point out the following: If you make shorter sentences and put the verb a little bit earlier in the sentence, then it would be much easier to translate.

A. But I must speak German.

The second collection of ideas was concerned with the refuting of the train of thought which the Commander in Chief of the Army, von Brauchitsch, had tried to express on 5 November, during the dramatic argument with Hitler. They were refuted individually by Hitler's own ideas.

The third trend of thought was an open declaration of war against the leaders of the army. I can still remember a few terms of speech which were used. The generals of the army at that time, he stated, were the last remnants of an old fashioned trend of ideas whose incapacities had already been proved in the First World War. In Poland we had shown that we had not yet grasped the spirit of the times, and we were still being chivalrous; then he said that he knew the resistance in the army and threatened, once at the beginning and once at the end of his speech, the destruction of all those who resisted him. He stated that the German people stood behind him and the idea of a revolution would destroy those who played with such ideas.

Q. And how did this day finish?

A. Scarcely did we get back to Headquarters than the Commander in Chief of the Army was immediately ordered to Hitler again. They had a private conversation about which the Commander in Chief of the Army, von Brauchitsch, reported something to me immediately on his return. The idea of the OKH resistance to Hitler was renewed and discussed very excitedly. Hitler told the Commander in Chief of the Army that he knew the spirit at Zossen. Zossen was the headquarters of the High Command of the Army—and he would destroy it. Zossen was the eastern headquarters of the OKH. It is a place—

Q. This is the name of the place in which the OKH had its headquarters. It is the local headquarters of the OKH and it is called Zossen.

A. During this discussion—

Q. Excuse me, which discussion?

A. The discussion we were just talking about which took place on 23 November in the evening between Hitler and the Commander in Chief of the Army in private. The Commander in Chief of the Army, as he reported to me directly afterwards, asked Hitler to accept his resignation from office. Hitler did not comply with this request.

Q. And then what was done in order to prevent the Western Campaign?

A. The only channels remaining were outside our former authoritative activity. At that time, together with our circle of resistance in the OKW and the High Command of the Army, I tried, by calling together all the high ranking commanders to form a front behind von Brauchitsch which would allow him to continue the resistance either through the route of open speech or through the route of political application of force. For this reason, immediately after the 23d, a large number of trips were made to the commanders in chief of the army groups and armies in which the various confidential agents participated, mainly my political and personal friend, General Heinrich von Stuelpnagel.

In order to be quite brief, we had no success in forming the united front which had been suggested by me. The reasons perhaps are of interest here. They lie, in the main, in the fact that all these steps finally were envisaged in an inner political struggle, but a large part of the higher ranking troop leaders believed that in this struggle no use could be made of the mobile army, pervaded by National Socialist forces, and in face of the enemy in front of us.

Q. Was a request also sent to Field Marshal von Leeb?

A. I mentioned that General von Stuelpnagel also went to the Commander in Chief of the Heeresgruppe C.

Q. And what was the answer from Field Marshal von Leeb?

A. Apart from one army leader, this was the only unconditional positive answer.

Q. And then did you talk with Field Marshal von Leeb about this later on?

A. On the occasion of an official visit during which operational questions were discussed, I talked with the Commander in Chief

of Army Group C also about this matter in private. At that time General von Leeb said to me—I don't know the exact wording, but I know the sense of what he said—he said, "I know in which direction you are going. You are very much younger than I am, and nevertheless in spite of this I follow you."

Q. And what did Field Marshal von Leeb do before this himself to prevent the Western Campaign?

A. During the Polish Campaign, Field Marshal von Leeb commanded the Western Front and dealt especially with the complex of the western defense. In addition, he is an internationally recognized expert in the sphere of operational and tactical defense. From this train of ideas, he compiled a memorandum about the defense in the west and sent it to the Commander in Chief of the Army, but it went beyond the purely tactical questions in so far as it stressed the idea that an outbreak of war in the west must under no circumstances arise. At that time he suggested the dividing up of the German forces not on our own western frontier, which the enemy threatened, but in order to make more clear our intentions of defense, the forces should be spread out into Germany; in this way, without an expression of military pressure, a discussion with our enemies should be reached.

(Recess)

Q. General, we had just talked about Field Marshal von Leeb, and I would like to ask you, did von Leeb do anything else, apart from this memorandum, for the prevention of the campaign in this direction?

A. I recall a letter which the later Field Marshal von Leeb addressed to the Commander in Chief of the Army. I believe that the whole line of averting an attack in the west was also continued therein, alongside other matters. The basic idea of this communication was that the Commander in Chief of the Army had to secure and insist upon his position in his dealings with Hitler in a sharper way and to fight for the army's influence upon the big decisions. Field Marshal von Leeb offered the Commander in Chief of the Army his full support in this matter if the Commander in Chief needed such support. At that time it was not merely a question of the fight regarding the western offensive, but also questions of spiritual care within the army, the well-known woman decree by Himmler, the attempts on the part of the Party to gain influence upon the structure of the army—on the whole, the fight of the army against the Party.

Q. A short question touching these matters. How did you gain knowledge of the contents of this letter?

A. Field Marshal von Leeb sent me a copy of this letter and requested me also to act and try to influence Brauchitsch along these lines.

Q. Now as is probably known to you—I want to make matters a little short—the other commanders in chief of the army groups also took part in trying to prevent the western offensive. Now what do you know about this? What was used as a pretext; what means did they avail themselves of in order to prevent this western campaign; what about the weather, the training?

A. Those were trends of thought of the commanders in chief of the army groups and the armies, and they aided us in this struggle of the Commander in Chief of the Army, von Brauchitsch, to defer the attack.

Q. And why did they want to defer the attack?

A. They wanted to defer it in order to gain time for foreign political talks and perhaps also for talks regarding domestic politics.

Q. Now, what was being done along this direction, what was used as a pretext in order to postpone the offensive?

A. The defects which were doubtlessly existing, the defects in armament, were pointed out. I talked yesterday for instance about our armored equipment—that only in spring 1940, was it brought up to date satisfactorily. The great defects were pointed out and emphasized, that is defects in our equipment of cars and motorized equipment generally, the difficulties of communications along the boundaries for a quick concentration for the purposes of attack; during the period of the frost, the fact that the roads were frozen.

Q. The question of bad weather; were these matters always believed in, or was Hitler distrustful toward these objections, for instance, on the grounds of bad weather?

A. I know of one occasion in which an emissary of the OKW was intentionally led across the worst and most icy roads deliberately by one of the army chiefs in order to emphasize the objections and give them substance. Thereupon Hitler sent another emissary in order to check this, and the weather really helped us in this way because we had a very sharp frost of minus 25 degrees and all the roads were covered with ice.

Q. What did Field Marshal von Bock who was in command of the Army Group B, do?

A. At an earlier period when the question of an offensive or a defensive solution had not been finally decided upon, Field Marshal von Bock submitted a memorandum to the Commander in Chief

of the Army in which, according to the statements Brauchitsch made to me, he depreciated the offensive solution through neutral territory and suggested a defensive solution.

Q. Who was at that time the Chief of Staff of Field Marshal von Bock?

A. At that time von Salmuth, who was Chief of Staff of the Army Group.

Q. General, are there any further facts you might adduce regarding the activity of the commanders in the West either directed towards diverting an offensive war against France, Holland, Belgium, Luxembourg?

A. I know that during the repeated conferences of the Commander in Chief of the Army with the commanders in chief of the army groups, this question was being constantly discussed; but during the bulk of these conferences I myself was not personally present, and only know about them from the short statements of the Commander in Chief of the Army.

Q. Now, a few questions regarding the Western Campaign. What mission was assigned to Field Marshal von Leeb during the Western Campaign?

A. Field Marshal von Leeb was Commander in Chief of Army Group C. That was an army group located south of Luxembourg which in the first stages was not taking part in the offensive operation.

Q. Did he have military missions against Holland, Belgium, and Luxembourg?

A. No, he didn't.

Q. Field Marshal von Leeb—did he participate, and was he responsible for the planning of the collective campaign?

A. No.

Q. Any of the other codefendants?

A. No.

Q. At what time, and in what manner were the subordinate agencies informed of the planning—in the way it was to be carried out subsequently?

A. That was done along the channel of command which was customary in the German Army. In this chain of command, the individual high ranking leader, in this case the army group, was only told as much of the over-all plan as he needed in order to understand, and execute his mission.

Q. That is, only in the framework of the mission actually assigned to him?

A. Yes. No reasons or considerations were communicated to him which were instrumental in formulating the plan itself.

Q. Now, what was the relationship of the military leaders to Hitler during the Western Campaign?

A. With those military leaders about whom one can talk in relationship to Hitler at all, this relationship became more and more tense.

Q. And to what facts was that to be attributed?

A. It was to be attributed to the intervention of Hitler in the operational conduct of the campaign. Even in cases where they did not directly concern individual measures, these matters became known.

Q. What was the result thereof for the relationship between Hitler and the military leaders?

A. The consequence was a distrust—an increasing distrust and a very tense atmosphere.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Wasn't there a rather long-running dispute between Rundstedt, and Manstein, and Brauchitsch as to whether the main weight of the attack should be put in Army Group A, that is, against Holland and Belgium, or with Army Group B—pardon me, I have reversed those. Army Group B was against Holland, and Belgium under Bock; and Army Group A, the lower part of Belgium and Luxembourg under Rundstedt. Wasn't there a long dispute about the weight of the attack, where it should be directed?*

WITNESS HALDER: During the whole time, before the beginning of the western attack, there was an exchange of ideas. I believe one could hardly call it a difference of opinion.

Q. Well, but the original plans to have the main weight of the attack with Army Group B under Bock was changed, was it not, and shifted to Army Group A under Rundstedt?

A. Yes, that is correct.

* See documents NOKW-517, Prosecution Exhibit 1157, and NOKW-511, Prosecution Exhibit 1160, reproduced earlier in this section.

Q. There were also repeated postponements because of bad weather, were there not?

A. I do not know what kind of postponements you mean. You mean the date of the attack?

Q. Yes.

A. From November 1939, onward Hitler, innumerable times, established a new deadline for the attack. Some of these dates were caused by the bad weather situation.

* * * * *

TRANSLATION OF DOCUMENT VON LEEB 5
VON LEEB DEFENSE EXHIBIT 38

LETTER FROM FIELD MARSHAL RITTER VON LEEB TO HERR AND
FRAU VON SCHLENK-BARNSDORF, 13 OCTOBER 1939

[Envelope front]

[circular postmark] Army Post Office

[Handwritten] Army Post Office 14 October 1939

[To] Herr and Frau von Schlenk-Barnsdorf

Barnsdorf vicinity Roth,
near Nuernberg

[Reverse] Sender: Leeb, General, Army Post Office No. 17554
Collection point Kassel

[Letter cards, front]

"In thanks for the many demonstrations of heart-felt sympathy for the hero's death of our beloved son and brother, Alfred Leeb, lieutenant in the 99th Mountain Infantry Regiment we express our deep appreciation.

Munich, in the field, beginning of October 1939.

The bereaved survivors"

[Reverse]

"In the field, 13 October 1939

Dear Mimi! Dear Willy!

From the bottom of my heart I thank you for your deeply felt sympathy with our grief. It is always like that in life: the best ones always try to do the most and must give their lives for it. The really depressing thing for me is the uneasy question why; what is the good of all these sacrifices? More than 500 young officers have fallen in the East! For a goal which could have been attained by other means as well. But this war was wanted and was therefore waged!

"The incidents at Lemberg are just as depressing. Here, too, the uneasy question, why this battle, when the Russians were already approaching on the other side of Lemberg [Lvov]. On the day after Alfred fell, the Poles surrendered without a fight to the Germans, 20,000 men, because they didn't want to be captured by the Russians! It is a tragic fate for which Alfred has given his life! Luitpold was not at Alfred's funeral. He did not learn of A.'s death until one day later and could not visit the grave, because the Poles were there. I have now succeeded in getting the mortal remains of our good Alfred from the Russians. They will probably arrive in Munich on Sunday and will then be buried in the little forest cemetery of Solln.

"What is going to happen now? I'm afraid that Hitler is drifting toward war in the West as well, which will call for extremely heavy, incalculable sacrifices. We are living in sad, violent times! God help our poor people!

Your Willy Leeb

TRANSLATION OF DOCUMENT VON LEEB 39a
VON LEEB DEFENSE EXHIBIT 39

LETTER FROM ARMY GROUP C TO CHIEF OF STAFF, ARMY GROUP B,
DEFENDANT VON SALMUTH, 11 OCTOBER 1939, TRANSMITTING
MEMORANDUM BY DEFENDANT VON LEEB TO GENERAL VON
BRAUCHITSCH, CONCERNING AN ATTACK ON FRANCE AND
ENGLAND BY VIOLATING THE NEUTRALITY OF HOLLAND,
BELGIUM AND LUXEMBOURG*

[Handwritten] CinC
[Initial] B [Bock]
[Initial] S [Salmuth]

The Chief of the General Staff of Army Group C
No. 112/1939 Top Secret

Headquarters, 11 October 1939

1—Enclosure

2 copies—1st copy

[Stamp]

Matter for Chiefs

Through officer only

[Stamp] *Top Secret*
By special courier

[Handwritten] K

[Stamp]

Hq. Army Group Command 1

Received: 12 October 1939 Processing Section Ia

* See Schniewind testimony, below in this section, for further discussion on this subject.

Journal No. 31/39, Top Secret

Enclosures: Matter for Chiefs Processed by: Ia

To the Chief of the General Staff of Army Group B,
Major General von Salmuth

By order of the CinC of the Army Group C, I am forwarding to you as an enclosure "*Memorandum* on the prospects and effects of an attack on France and England under violation of the neutrality of Holland, Belgium, and Luxembourg," which was submitted to the CinC of the Army and to the Chief of the General Staff of the Army.

The CinC requests that this memorandum also be submitted to the CinC of Army Group B.

[Signed] VON SODENSTERN

Distribution:

Chief of Gen. Staff Army Group B—1st copy
Army Group C, Ia (draft)—2d copy

The Commander in Chief, Army Group C

Headquarters, 11 October 1939

[Stamp]

Matter for Chiefs
Through officer only

No. 112/39 Top Secret

4 copies—3d copy

[Stamp] Top Secret

To the Commander in Chief of the Army,
General v. Brauchitsch

Grave anxiety for our future causes me to survey our present situation more closely.

The measures in the theater of operations of Army Group B, and the task with which the group has been entrusted show that a large scale attack by this army group is being prepared for Holland and Belgium or, passing through those two countries and Luxembourg, for France.

Supplementing my situation report of 7 October, I want to recommend to your special attention the enclosed memorandum, considering the serious situation in which we find ourselves which might decide our people's future for several decades to come; in it, many subjects that have been dealt with are herewith repeated as a summary.

I am sure that my views are shared by many others who take the trouble to assess the present situation.

[Signed] LEEB

1 enclosure

Distribution:

Commander in Chief Army—1st copy

Chief of the General Staff of the Army—2d copy

Commander in Chief Army Group C—3d copy

I a Army Group C—4th copy (draft)

[handwritten] 4 copies—3d copy

[Stamp]

Enclosure to Army Group Headquarters 2d section

No. 112/39 Top Secret

[Stamp]

Matter for Chiefs

Through officer only

Memorandum

on the prospects and effects of an attack on France and England by violating the neutrality of Holland, Belgium, and Luxembourg

A military attack on France and England, if it is to improve Germany's situation, can have for its objective only the annihilation of all military and economic powers of those two countries. For the two countries, once they are attacked by us, will be prepared to talk peace only when they cannot see any more opportunities which could lead to a decision in their favor, be it in the military or economic field. The stubbornness, mainly of the English, and also of the French when following the lead of the English, guarantees that they hang on to the end once they are attacked as their conduct during the World War has sufficiently proved.

1. Military Prospects

The objective to smash the *military power* of England and France in a manner which makes them ready to talk peace, is unattainable. Even the first prerequisite of a quick success, the operational surprise, is not given. Neither France nor Belgium can remain ignorant of the concentration of Army Group B.

Belgium is shifting even now, at the beginning of that concentration, considerable reinforcements towards Liege and north of it has already now more than half of its field army assembled in the region around Liege-Antwerp. In contrast to 1914, it will not give up the Fortress Liege and the region of the King Albert

Canal, adjoining northwest and strongly fortified, without putting up a fight. It will at least delay very much the German advance north of the High Venn via Aachen and through Holland.

For this reason, if for no other, a German attack cannot count on surprising the French.

The French themselves have protected their north eastern frontier even now and are in a position to advance the bulk of their army, which is not committed but freely available, by way of 13 double-track railroads to the Belgium and Luxembourg frontiers within a very short time. The French possess a strong support in their zone of fortifications. It is developed most strongly towards Luxembourg and the eastern part of the Ardennes and up to the Montmedy region; farther northwest it offers to the troops fighting there a strong backing even in its present condition, i.e., probably still unfinished—in the same manner as we hope it to be the case regarding the unfinished parts of our western fortifications.

Considering the structure and the width of the front of the 1st Army, it is not possible to tie down by an attack the enemy forces deployed for protection before the front of the 1st Army. Beside, the Maginot Line which is very strong in that spot could be held even by weak forces against a weak attack. The German attacks already delayed and occupied by the Belgian Army—I do not want to discuss in this place the attitude of the Dutch Army which has no great military value—will, therefore, certainly meet with equal and probably superior infantry and artillery forces in fortified positions, at the latest at the French frontier. Even now it is repeatedly confirmed that French troops are being shifted from the Italian frontier towards the north. It must be assumed as a certain fact that in the case of a breach of Belgian neutrality by us, the Belgian Army will be found at the side of France.

It is uncertain whether the French in the assumed case will sacrifice Belgium and Holland, and thus forego the strength added by the Belgian and Dutch military power, and will accept the disadvantage of the loss of territory, operationally important as it is. It can very easily be assumed that they will meet a German attack already on Belgian territory, if for no other reason, in order not to permit the coast of Flanders to become an enemy submarine base and to prevent an extension of our air bases. The place of that development depends largely on the development of the tension, not to be predicted now, before the beginning of a German attack.

The consequences cannot be doubtful in either case. They certainly will not result in the annihilation of the Anglo-French Armies, the necessary final objective. It is possible that local suc-

cesses are attained. It is also possible that the enemy will be thrown out of his positions in several spots. It is possible that the combined French-English-Belgian forces will be forced to fall back on the French fortifications, and that further attacks will subsequently occur. In no circumstances, however, will the French leadership—which must not be confused with the Polish one—permit itself to be beaten in front of those fortifications. At any case, sooner or later comes the state of exhaustion. When General von Falkenhayn ordered the resumption of the attack in the second half of September 1914, after the retreat from the Marne, that order faded away without a decisive effect. The consequence is the war of attrition.

One could counter the above with the success of our mobile forces, especially the armored troops, in Poland. Such a comparison is dangerous. Let alone the fact that just the armored forces are to a large extent dependent on the prevailing weather, the high value of the French Army and its leadership must not be underrated and the equipment with armored units and antitank weapons of the French and the English Armies must not be forgotten. It can hardly be expected that the proven courage of the armored forces will enable them to display once more against the Western Powers the nerve which in the East carried them from success to success.

The air force is presumed to be at present numerically superior to the combined Anglo-French Air Force. Still, considering the stubbornness, chiefly of the English, it will not be able to bring a decision by itself. No one can prevent England and France from developing their anti-aircraft defenses and their air forces more and more strongly, thus gradually weakening the effect of air raids. It is to be feared that the air war, even if we can retain the initiative, will take a development similar to that of the submarine war—and the successful defense against it—during the World War. It is at least an open question and not answered by any experience, whether the operational air war can be considered to have a decisive effect on the war. In any case, it is a safe guess that a few brief and powerful operational air thrusts will not do the job. Thus, the final success is a question of personnel replacement and replacement of equipment. Will it be able, not only to cover the losses in personnel and material which are to be expected, but also to cope with the growth in strength which is certainly expected to flow to the enemy from the whole world?

Considering its low number of naval units, the navy will not be able to influence the development of events decisively. The course of the World War has shown that even the possession of the

Flanders coast is not sufficient to bring on such a decision by submarine warfare.

The decision to attack *must* be preceded by the question, what can such an attack achieve for us? As explained above, it leads to a war of attrition either before the French fortifications or already on Belgian territory. If it is *a priori* given a limited objective—say, the capture or extension of our bases for aerial and submarine warfare—this limitation will not prevent the war of attrition, and a secure basis for final victory is not won by it, either.

This is open to the objection that from a military view point the present time is the most favorable one for an attack, because the English have at present mainly only their regular troops available; because of the daily flow of additional modern war material to the enemy, coming even from neutral powers; and because both the English and the French must at present still depend alone on themselves. These arguments are correct by themselves (if one disregards the reinforcement by the Belgian forces, which is to be expected with certainty). They fail to take into consideration, however, that by an attack—which demands from the attacker sacrifices far higher than those of the defender—the proportion of power will deteriorate to our disadvantage. Our striking power will be exhausted. The war of attrition will be forced upon us and the increase in enemy strength, which is to be expected, will just the same begin to tell during the coming spring, and under conditions more unfavorable to us. The World War has given sufficient proof that a war of attrition, drawn out for many years, means serious disadvantages for us. There are no allies to join us. Italy keeps aloof even now. Russia has obtained what it wanted by the force of our arms and has thus regained a direct influence upon the destinies of Central Europe. Considering its diplomatic relations to the Western Powers, which continue to be maintained, its attitude remains uncertain. The more we commit ourselves in the West, the more the Russians will be at liberty in their decisions; Belgium, however, and in the course of the years also the United States, will be the camp of our enemies; and the dominions will spare no efforts to give their mother country strong support. Our replacements situation, due to the absolute lack of trained reserves, will become much tighter and more perilous than it was already during the World War; even today the divisions of the third and fourth wave [3. und 4. Welle], which are not qualified to be used in any offensive, contain a considerable percentage of untrained and a still higher percentage of briefly trained personnel.

The decision to attack can, therefore, be resorted to in spite of everything only if the attack is deemed a compelling necessity, i.e.,

if there should be no other possible solution left for us. On this point we will elaborate below (see section 4).

2. The Political Consequences

One cannot help feeling that England and France are virtually and anxiously waiting for us to do them a favor by an attack or only by a violation of the neutrality of Belgium or Holland. The fact itself that the French were passive onlookers while we began to concentrate Army Group B—the purpose of which, of course, has long been recognized—is a proof of how fervently they would welcome that attack.

It would at once provide England and France with the thing which they have lacked until now, the most effective slogan imaginable: The defense of the nation, and be it only the Belgian one! There is no Frenchman who would shirk his duty when hearing that slogan: Everyone will fight for his country if and when it appears endangered, if only by the invasion of German troops into Belgium.

There is nothing which would be more desirable to the war-mongers of England than an attack on our part, which would enable them to brand us subsequently as the permanent instigators of unrest in Europe. The call for the liquidation of that agitator will sound louder than ever—and will be listened to!

The violation of the neutrality of Belgium is bound to force Belgium into the French camp. Then France and Belgium will have a common enemy—Germany, which for the second time in a quarter of a century has fallen upon neutral Belgium! Germany, the government of which a few weeks ago solemnly protested its respect for that neutrality! We have elaborated already in section 1, on the fact that it can be easily imagined in this case that France will at once send strong forces to the assistance of the Belgians, i.e., that heavy fighting will ensue already on Belgian territory.

If Germany violates by a quick and arbitrary act the neutrality of Holland, Belgium, and Luxembourg, which was solemnly recognized by its government, this fact must cause even those neutral countries which possibly still have sympathy for the German cause, to turn their backs on the Reich. The Reich, which even now cannot count on the military assistance of Italy and Russia, will be isolated more and more, including economic isolation. Especially the United States whose population is particularly receptive to such slogans will be more inclined to yield to English and French influences.

France and England will, in the case of an attack on our part, save manpower, a fact which must be very welcome to them, espe-

cially to France if and when war cannot be avoided. It remains our part to undertake the attack with all its heavy sacrifices, and it is the part reserved to the enemy to be thrifty with its forces, being on the defense. France will attain an advantage which must be considered of great importance with respect to its population and domestic policy.

The attack will precipitate the greatest disappointment in our own people. We must not let ourselves be deceived into denying that already the forcible solution of the Polish problem has found no echo in the masses of the German people, and that the sacrifices brought there, although they may be considered tolerable when expressed in percentages, are felt as a heavy burden. Whoever experienced the inner participation of the population in the victories of 1914, must become thoughtful when he sees the apathy with which large circles of the people have observed the war events in the East in 1939. The discipline of the German people and its indestructible belief in the Fuehrer's love of peace induced it to bear the Polish war willingly. Now, however, after its termination, a deep longing for peace dominates the whole people. Whoever knows the mood of the people cannot report anything else. Rumors which are being spread to the effect that the generals are fomenting war in order to strengthen the position of the army toward the Party, although the Fuehrer himself wants peace, must be considered symptomatic in spite of their absurdity.

The attack upon Belgium, or through Belgium upon France, means the continuation of the war. It will not weld together, but split up the fighting spirit of the people. Such a split will be carried into the troops only too quickly!

3. The Economic Consequences

It hardly needs any proof that a German attack which, as stated above, will lead to a war of attrition—for us warfare in the open field—with interlocked fronts, will demand considerably higher performances in all economic fields than would be the case when taking a waiting attitude and possibly accepting an attack of the enemy while entrenched in the western fortifications. In this context, we have only to remember the demands of the battle of matériel, and to emphasize that we should be able to discharge not inconsiderable parts of the armed forces and to integrate them again into the economic life, if we take a waiting attitude.

Our economic situation will become more difficult if our violation of the neutrality of Holland and Belgium has an unfavorable effect upon the attitude of other neutral nations, which is to be expected, and if, in the case of insufficient successes from the attack, it possibly even influences the Russian attitude.

Thus, just the preparations for an economic war which England, if the state of war remains in force, will not forego *under any condition* require that no military operations should be initiated which are bound to aggravate our situation with respect to foreign policy and, by the same token, our *economic* situation, but would also mean an increased strain on our economy.

4. The Situation resulting from a Waiting Attitude

The German Army cannot be attacked, if continuing to stand with its arms ready at the western frontier of the Reich, and in the strength necessary to repel an attack. Any attack would cost the enemy the heaviest sacrifices and would still be unlikely to smash our defensive strength. There cannot be a *military* victory of England and France.

The French and the English know that, too. They, too, will wait and hope that we are going to do them the favor of starting an attack doomed to failure. The waiting attitude will permit us to make available to the German economy the personnel and material forces which it needs in order to provide the production necessary for a long lasting war.

The German people will realize that it is only the stubborn attitude of England, which forces us to continue in a state of war. It will understand that necessity and will strain its emotional powers in order to bear the privations brought on by it. In the case of an enemy attack, it will know that the *defense* of Germany is at stake.

Finally, and this is probably the most essential point, the leadership of the Reich will keep the army completely intact as the greatest factor of power to be used in any further negotiations. It cannot be forced to agree to any unfavorable peace terms.

TRANSLATION OF DOCUMENT VON LEEB 33 VON LEEB DEFENSE EXHIBIT 42

LETTER FROM DEFENDANT VON LEEB TO THE COMMANDER IN CHIEF OF THE ARMY, BRAUCHITSCH, 31 OCTOBER 1939, CONCERNING POLITICAL AND MILITARY STATE OF AFFAIRS*

The Commander in Chief of Army Group C

Headquarters, 31 October 1939

Dear Mr. v. Brauchitsch!

The courier officer announced yesterday was just here.

In this fateful time, I feel it urgent to tell you once more how much I appreciate the responsibility which rests upon you. Perhaps

* This document is also discussed in the closing statement for defendant von Leeb, section V B 2.

the fate of the entire German people depends on you in the next few days. For in the present situation, the Commander in Chief of the Army is called upon above all else to realize his view in every way, a view which is supported by the entire General Staff and all thinking parts of the army.

I hope that the commanders in chief of the other two branches of the armed forces do not close their eyes to this fateful hour.

The *military* reasons which speak against the plans of the Fuehrer are clear.

We cannot carry through to the end if only because of the state of our reserves. Even at present, when there are not yet any serious demands for reserves, it is difficult to discharge the enlisted men who are past the age limit. The many officers who are past the age limit (supplementary reserve, at disposal, and officers commissioned for the duration) cannot be replaced at all.

The sword does not have the edge which the Fuehrer seems to assume. The gaps which we now have, above all the watering-down of the officer corps must necessarily therefore, take effect faster and more decisively than was the case in World War I. There are shortcomings everywhere. If one merely skims over the surface, to be sure, this is not noticeable. I have just received a report concerning an artillery troop unit—an example for many others—to the effect that it constitutes a greater danger for our own troops than for the enemy.

I consider the military annihilation of the English, French, and Belgians a goal which cannot be attained at present. For, only if they are annihilated would they, if attacked, be ready for peace.

To associate the success in the East with the wishful thinking in regard to the West would be a fatal deviation from reality.

In the political field, we have Poland as a security in our hands, don't we? If that doesn't suit our opponents, then let *them* attack.

The whole nation is filled with a deep longing for peace. It doesn't want the impending war and regards it with no feeling of sympathy whatsoever. If the Party offices report anything else, they are withholding the truth.

The people are now looking forward to having peace result from the policies of their Fuehrer because they feel quite instinctively that it is impossible to destroy France and England and that any more extensive plans must, therefore, be held in abeyance. As a soldier, one is forced to say the same.

If the Fuehrer were now to make an end to the present situation, under conditions which were in some measure acceptable, no one would interpret this as a sign of weakness or of yielding but rather as recognizing the true status of power. The granting of an autonomy for Czechoslovakia and allowing the remainder of

Poland to stand as a nation would probably meet with the complete understanding of the entire German people.

The Fuehrer would then be honored as a prince of peace, not only by the entire German people, but assuredly also by large parts of the world as well.

I am prepared to stand behind you personally to the fullest extent in the days to come and to bear the consequences desirable or necessary.

Yours very truly,
[Signed] LEEB

EXTRACTS FROM THE TESTIMONY OF DEFENDANT SCHNIEWIND*

DIRECT EXAMINATION

* * * * *

DR. MECKEL (counsel for defendant Schniewind): This brings me to the preparation for the campaign in the West. In this connection the indictment contends that through the so-called key conferences on 23 May and 2 [22] August 1939, you were informed of the fact that Hitler intended not to observe the neutrality of Belgium and the Netherlands. That is in paragraph 17 and 18 of the indictment. Now, is this assertion correct?

DEFENDANT SCHNIEWIND: I should like to refer to the testimony of the Chief of General Staff of the German Army, General Halder, who has testified before this Court about this problem. About your question on the conference of 23 May, in my opinion there can be no doubt that definite intentions about war in the West, possibly already with decisions, intentions, implementation, and matters of execution, were not discussed. In the same way I am certain that this also refers to 22 August, where such intentions and discussions would not have fitted into the tenor of the conference, because during that conference Hitler designated the idea of a warlike conflict in the West as nonexistent.

Q. According to entries in the War Diary of the Naval War Staff at the beginning of October 1939, you had a discussion with General Halder, Chief of Staff of the German Army. Do you remember the discussion?

A. Yes.

Q. What was the substance of this discussion?

A. At that time during the first days of October, I went to see General Halder, Chief of Staff of the German Army, in order to

* Complete testimony is recorded in the mimeographed transcript, 25-27 May 1948, pp. 4791-4957.

find out from him whether he saw any possibilities for giving the navy a more favorable operational base against England. As the most advantageous objective, I designated Normandy at that time, or even better, Brest in Brittany. The Chief of Staff of the German Army rejected such ideas or trains of thought as Utopian and said that one could not expect anything like such an operation, and that he saw no opportunity for the carrying out of such an operation, and even less, the possibility of achieving such objectives.

Q. In this discussion was the question of the occupation of Belgium and Holland mentioned?

A. I didn't touch upon this question. General Halder touched upon it in a very cursory manner, in as much as he said, "Even if one could visualize the carrying out of an operation against France, perhaps through Belgium and Holland, an objective such as Normandy—Brittany would remain Utopian." I for my part didn't touch upon this matter at all, because in reaching the Belgium-Dutch frontier we saw no improvement for a naval operational base, as the First World War had shown.

Q. This discussion took place after the war with England and France had broken out?

A. Yes, it took place in the first days of October, and England and France had declared war on us on 3 September 1939.

Q. What was your reason for discussing this objective Brest, Brittany, and Normandy?

A. The Polish campaign had come to an end. Now, of course, all the attention of the armed forces, and thus, also of the navy, was directed more strongly toward naval warfare, toward a war against England. I saw the picture as follows: Perhaps with the releasing of the forces from Poland there was now a possibility of marching into France by breaking through the Maginot Line.

Q. Were you particularly interested with your suggestion in aiming at an operation against France or what was your basic idea? What was the aim of your inquiry?

A. In my aims it was very clearly defined what I wanted. I wanted to reach Normandy-Brittany and I did not think of a route other than via the immediate frontier Germany-France.

Q. What was the interest of the navy in reaching Brest and Normandy?

A. It would have been a more favorable operational base for our naval warfare directed against England.

Q. Were other possibilities discussed, bases for naval warfare and how to achieve such bases?

A. In the discussion with the Chief of Staff of the German Army, I also touched upon the Norwegian problem and asked him how he visualized an operation of the German Army against Norway. He rejected such an operation completely. The impetus for this question of mine was undoubtedly given by the letter of Admiral Carls which I had just received during the first days of October.

* * * * *

Q. Do you remember Directive No. 6 for the Conduct of the War, dated 9 October? This is Document C-62, Prosecution Exhibit 1145.

A. I could no longer remember this Directive No. 6. However, I had an opportunity to read it here once again, and now I know all about it again.

Q. It is stated there, and I quote, "Among other things the purpose is to gain as large an area as possible in Holland, Belgium, and Northern France as a base for conducting a promising naval war against England." Is that consistent with the opinion held by the Naval War Staff?

A. No, it is not consistent with the opinion held by the Naval War Staff.

Q. Why not?

A. The Naval War Staff could not do very much with bases along the Dutch and Belgian coast.

DR. MECKEL: If Your Honors please, at this point I should like to refer to Document Schniewind SKL 403, Schniewind Defense Exhibit 80,* which I am going to submit later and which contains this attitude of the Naval War Staff which the Admiral just mentioned, it is an entry in the War Diary and states that the Naval War Staff is not interested in bases in Holland and Belgium.

Did the navy participate in preparatory plans and considerations which formed the basis of this Directive No. 6?

A. No; otherwise the sentence which you just quoted in this order would not have been included.

Q. What tasks were allotted to the navy according to this directive?

A. As far as I recall it is expressed here in paragraph 5: "The Naval War Staff has to make every effort in order to support the operations of the army and the air force directly or indirectly during the course of this operation." Such possibilities of support-

* Document immediately following.

ing the other two branches of the service were not envisaged by the Naval War Staff.

Q. In this directive the possibility is also considered that the Western Powers might invade Belgium?

A. Yes, that contingency is also expressed in the directive. In addition there were also indications that such a course might be taken by the Western Powers.

Q. In this connection may I submit Document NOKW-2078, Prosecution Exhibit 1150.* It says there: "New instructions from the Fuehrer. In the course of Operation West, it may possibly be expected that the neutrality of Holland will not be respected by the Western Powers." Have you found that place? Do you know on what that attitude is based?

A. Exactly and authentically I can, of course, not give you the reason for the inclusion of this indication in the Fuehrer's directive; but I have some clues. We in the Naval War Staff had a liaison officer of the German Army through whom we were generally informed of the attitudes and measures of the German Army and of the General Staff—to the extent to which this liaison officer was authorized to communicate such opinions to us. Through this man we learned that the general staff held the opinion that the manner of the French deployment along the Franco-Belgian frontier was directed towards a possibility of attack on the part of the British and the French through Belgian territory against our western frontier. There was the additional factor that one-sided troop concentrations of the Belgians along the Belgian-German frontier had been reported. Information from agents stated similar facts and, finally—and that was decisive—a factor which showed us something about the idea of neutrality on the part of the Belgians and the Dutch, the opinion which prevailed in England and France. I believe I am not wrong in stating that in the months between September and March approximately 100 protests were lodged on the part of the Germans to Belgium and Holland because of the British and French aircraft—probably more British than French aircraft—flying over Belgian and Dutch territory.

* * * * *

Q. Admiral, yesterday we stopped while we were discussing the Western Campaign. You testified that the Naval War Staff expressed its lack of interest in naval bases in Belgium and Holland. Do you know whether Admiral Raeder at that time and later had likewise expressed that lack of interest in bases in Belgium and Holland, and thus in the operations there?

* Document reproduced above in this section.

A. Yes, I know that he did express this sentiment. For this reason he made representations to Hitler on several occasions. Of course, in his statements he had basically to limit himself to military arguments against such an operation. In addition, however, I know that at least on one occasion when he had a discussion with Hitler, he also mentioned the political and legal misgivings about such an operation.

Q. In Hitler's address to the Generals on 23 November 1939, the Western Campaign was primarily discussed. You were present during that address?

A. Yes.

Q. Where did it take place?

A. In Berlin, in the Reich Chancellery, and there was a large audience.

Q. Who was also present from the navy?

A. So far as I know there was only Admiral Raeder, and I accompanied him.

Q. Concerning this address, Field Marshal Leeb, and the Chief of General Staff, General Halder, who was also present during this conference, have testified here. Now what was the attitude of the navy to the problems which were discussed there?

A. To appraise the problem of how an operation in the West was to be carried out, and whether it could be carried out in the way in which Hitler envisaged it, was, on the one hand, a matter for the High Command of the Army; and as far as the political aspect was concerned, it was a matter for the political leadership of the State. The navy, at any rate, had no particular interest in a march through Belgium and Holland, or the occupation of the coastal strip.

Q. General Halder has stated here that the German Army was opposed to this Western Campaign, did you know that at the time?

A. Yes, Admiral Raeder knew that. It was known also among the Naval War Staff. In addition, it was known in what manner and through what means the OKH hoped to cross Hitler's intentions.

Q. Did you have any cause not to work out the preparatory orders for the support of the German Army in the Western Campaign?

A. No, I saw no reason for doing that. Since the Chief of the Naval War Staff had expressed his misgivings about the operation, but had not found any consent with the responsible authori-

ties, another solution didn't seem possible. The orders which had been given had to be carried out. In addition, we finally lacked inside knowledge of military and political connections.

Q. In what respect did you lack inside knowledge of military and political connections?

A. Of course, we were in no position to survey what the foreign political and military political reasons might be for the supreme leadership to make such a decision, and to adhere to that decision.

Q. According to the considerations of the Naval War Staff, what was the possibility for the navy to support the operations of the German Army?

A. On its own, the navy, as I stated earlier, saw none or very small possibilities for such action. The Fuehrer directive, however, had provided that the navy was to support the advance of the German Army, after the occupation of northern Holland, by giving its support in the occupation of the islands located along the Dutch coast. In addition, the Fuehrer directive provided that the Dutch coast was to be mined.

Q. What was the Naval War Staff order to the subordinate agencies?

A. The Naval War Staff instructed the naval agency in question, the Naval Group North, to take up contact with the agencies of the German Army in its area, and to make the necessary preparations, for the occupation of the islands and for the laying of mines along the Dutch Coast.

Q. Admiral, I believe you made an error there. What was the name of the agency, the Naval Group North?

A. At that time the agency was still called Naval Group West. It was renamed later.

Q. When was the German operation to start?

A. The operation, in this case the mine laying was to start on the day when the German Army attacked, before dawn.

Q. The prosecution asserts in point 22 of the indictment that "Schniewind ordered this on 12 December 1939." In this connection the prosecution refers to Exhibit 1156 (*NOKW-2042, Pros. Ex. 1156*).* Was that an order which you had issued?

A. Of course, it was an order from the Chief of the Naval War Staff, Admiral Raeder, which was passed on by me, at his order. I could not issue orders.

PRESIDING JUDGE YOUNG: What was the number of that, the exhibit number of that last document, 1156?

* *Ibid.*

DR. MECKEL: Document NOKW-2042.

Is it correct that mine-laying measures against the Dutch ports, and fighting measures against the Dutch Fleet, were not intended at first?

DEFENDANT SCHNIEWIND: Yes, that is correct.

Q. Do you know why that was so?

A. No clear explanation was given in the order. The Naval War Staff as well as Admiral Raeder, held the view that a peaceful entry into Holland could be managed, and that for this reason actual fighting measures would have to depend on a special decision and special consent to be granted by Hitler.

Q. And how did it come about that this order was later on not extended?

A. A few days later this restricting order was partly rescinded by Hitler. This was done in as much as from then on the measures of blocking by way of laying mines before a few Belgium and Dutch ports were declared permissible. We interpreted these alterations to the effect that apparently naval auxiliary actions by the British would thus be rendered more difficult. We were, however, still prohibited to engage in any fighting against Dutch naval forces.

Q. Was that a striking matter?

A. In view of the otherwise very clear orders which had been given from above that was, naturally, rather striking. This again we interpreted to mean that apparently it was still possible to make some arrangements with Holland.

Q. At the end of December, Hitler ordered stronger measures for naval warfare. Do you remember that?

A. Yes.

Q. What was ordered, if you can tell us?

A. Hitler ordered that at the time of the attack in the West stronger measures were also to be taken in the submarine warfare.

Q. What connection did you see between these submarine operations and an offensive against France or against the West?

A. A tactical operational connection did not exist at all with these measures in the submarine warfare. At best I can see a connection which Hitler perhaps saw or believed he saw, namely, that he hoped large scale successes in submarine warfare would achieve a stronger psychological effect on the enemy.

Q. It was then a temporary measure?

A. Yes, that is correct.

Q. Did that situation remain with the attack in the West?

A. Since the operation in the West was more and more delayed from December until it finally started in May 1940, the more stringent measures in submarine warfare were put in force in January 1940, completely independent of the Western Campaign.

Q. I will pass to you Document NOKW-2269, Prosecution Exhibit 1163.* This is an order addressed to Group West. It is dated 24 January 1940, and it concerns support of the operations of the German Army. Do you remember that order?

A. Yes.

Q. On what is that order based?

A. What information had been given by higher levels, and by virtue of which instructions by Hitler or by the OKW this order was eventually issued, I cannot remember at the moment, nor can it be gleaned from this document. At any rate, it says in paragraph 2, and I quote: "In case the enemy seizes the initiative by crossing the Belgian frontier or by establishing himself in the Dutch coastal area, counter measures of our own may become necessary upon short notice."

This then shows that such measures on the part of the enemy were expected.

Q. Did you gain any knowledge at any time as to whether that opinion was correct that on the part of others also preparations were being made for the occupation of Belgium?

A. A confirmation for the opinion that such precautionary measures could be justified we found after the occupation of France in documents which we found in French archives. From these documents it became clearly apparent that long before the war the question of waging war through Belgium and Holland against Germany had been deliberated. During the war, contact was kept up with Belgium official authorities and we saw that even a Belgian Grenadier regiment considered the possibility of where and what preparations had to be made for the Allies.

Q. Thank you. That is sufficient.

MR. DOBBS: Your Honor, I believe this subject was covered yesterday, if I am not mistaken.

PRESIDING JUDGE YOUNG: I think it was. I am not sure whether it was covered yesterday as to Belgium or as to Norway, but anyway he's answered the question.

* Ibid.

DR. MECKEL: Would you have had the possibility to express your misgivings against the Western Campaign in any way and, if so, in what way could you have done that?

DEFENDANT SCHNIEWIND: I could not have done it to any authoritative agency. To exert any influence on Hitler, I had no possibility at all. My only possibility was to advise my commander in chief. However, he held the same opinion as I did anyway and this opinion was expressed by him to Hitler, and I knew that.

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TRANSLATION OF DOCUMENT SCHNIEWIND SKL 403
SCHNIEWIND DEFENSE EXHIBIT 80

ENTRY IN WAR DIARY OF NAVAL WAR STAFF CONCERNING
INTENTIONS IN THE WEST, 2 OCTOBER 1939

Extracts from the War Diary of the Naval War Staff (1st section)
Part A, Issue No. 6 of 1-31 October 1939

2.X.

2. The Chief of the Naval War Staff comments on the possibilities for the further prosecution of the war put before him by the Chief of the OKW, and issues instructions for the Naval War Staff to consider corresponding plans—

(1) Decision to be forced in the West by land operations. Concentration of the entire armament industry and military economy on army and air force.

(2) Decision to be forced by "siege of England." Concentration on speediest large scale expansion of the U-boat arm and the types of airplanes required for waging war against England. On the land, defensive tactics in the west.

(3) Defensive warfare on land and on sea. Delaying tactics. Concentration on expansion of all branches of industry and economy, strengthening of the German raw material basis with the aim of enabling the German economy and food supply to hold out indefinitely.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON KUECHLER*

DIRECT EXAMINATION

* * * * *

DR. BEHLING (counsel for defendant von Kuechler): Did you participate in the over-all deployment planning and preparation for the Western Campaign?

* Complete testimony is recorded in mimeographed transcript, 27-29 April 1948, pp. 2787-3002.

DEFENDANT VON KUECHLER: No, I merely received the documents by way of information.

Q. You mean orders, don't you?

A. Yes, orders.

Q. General Halder and Field Marshal von Leeb spoke before this Tribunal of a conference which took place in Koblenz at the beginning of November at the headquarters of Field Marshal von Rundstedt, in which the three commanders in chief of the army groups in the West took part. In this connection we heard that your commander in chief, Field Marshal von Bock, had sent a memorandum to Hitler. Did Field Marshal von Bock inform you about this memorandum or about the result, in substance, of the Koblenz conference?

A. No, no.

Q. If I understood you correctly, you belonged, for the time being, to the reserve of Army Group Command B.

A. Yes, I headed a reserve army which was attached to Army Group B.

Q. How was it that you were actually sent to the front?

A. In March of 1940, I received the order to take over the northern flank of Army Group B, and thus, by taking over these army corps, the X Corps, the XXVI Corps and the 1st Cavalry Division, the 18th Army was formed.

Q. What mission did the 18th Army receive?

A. The 18th Army received the mission to advance on the right flank, via Holland and Belgium.

Q. Who issued this order to you?

A. I received it from my superior office—that was General von Bock—who, again, received it from his superior, which was the OKH.

Q. In other words, you were the recipient of an order?

A. Yes. I received the order and had to execute it.

Q. Did you assume that questions of international law had been clarified by such agencies as issued the order?

A. Yes.

Q. Is it correct that your army subsequently captured Paris?

A. Yes, that is correct.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. NIEDERMAN: When you were given command of the 18th Army, what was your mission?

DEFENDANT VON KUECHLER: First of all my task was to supervise the training of the divisions which were in reserve and I was at the disposal of Army Group B—yes, Army Group B.

Q. When did you first receive information about the planning for the invasion of the Low Countries?

A. I don't know the date exactly. I cannot remember it, but it would be in December 1939. I cannot remember the exact date.

Q. I think it was a little earlier. I show you Document NOKW-568, which is Prosecution Exhibit 1151.* Now, Defendant, if you will look at the distribution, you will see you received the seventh and eighth copies of that document, did you not?

A. Yes.

Q. Now, will you look at the first page and identify the document?

A. It is Army Group B, Ia, 962/39, Secret.

Q. Well, it is an order, is it not? An order for Army Group B?

A. There is no date at all on that, no date.

Q. Well, the copy I have before me has a stamp on it, has it not, dated 16 November 1939?

A. 16 November 1939. Ah! 16 November; it is written in handwriting, I didn't know that.

Q. This date then, that is 16 November, is it not?

A. Yes, 16 November.

Q. Will you read the second paragraph of that document—

A. "The OKW has ordered Army Group B to make the necessary preparations to occupy as large a part as possible of Dutch territory north of the River Waal when so ordered by the OKH."

Q. So that at that time when you received the document you must have known that there was contemplated at least an invasion of the Dutch territory, is not that true?

A. Dutch territory?

Q. Dutch territory. Was there an answer to that question?

A. Dutch territory, but not by me, I didn't take part in that.

* Document reproduced above in this section.

Q. Now you had knowledge that there was contemplated such an invasion. Now you knew that the Low Countries were neutral, what was your opinion of such an act of invasion?

A. It was a political measure which I really didn't think about at all. I really don't know what I thought about it then. These orders came from Hitler via OKW and OKH, Army Group B to me, and only for information. I was not participating in it at all. I was not at the front. I think in a political connection, I really didn't think about it at all.

Q. Now do you recall Hitler's conference of 23 November 1939?

A. Yes, I remember that. I took part in it.

Q. And do you remember at that conference—I won't show you the document unless you want to see it. I'll just give you a quote: Hitler said, "The permanent sowing of mines on the English coasts will bring England to her knees. However, this can only occur if we have occupied Belgium and Holland; breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won." Do you remember Hitler saying that at that meeting?

A. No.

MR. NIEDERMAN: If the Tribunal please, this is Document 798-PS, Prosecution Exhibit No. 1101.¹ Now, Defendant, did you take any part in the planning of the invasion of the Low Countries?

A. No, I took part neither in any planning or in any discussions, nor any intentions regarding the occupation of the Low Countries. As I stated this morning; in March I was assigned, and I received the two corps, and the 1st Cavalry Division, and my order to invade via Holland.

Q. The planning for that invasion was very secretive, I assume, and restricted to a small circle?

A. Well, at any rate, I didn't take part in it.

Q. I show you a document, NOKW-2588, Prosecution Exhibit 1555,² which has not as yet been presented in evidence, and ask you to identify it. Can you identify it, the first page for us, please?

A. Yes. "Chief of General Staff, OKH, 2 February 1940,
* * * *"

Q. I have that translation before me. Let me read it in the English as it was translated: "In the sphere of the army the officers listed on the attached roster are without limitation participat-

¹ Document reproduced above in section D 1.

² Document reproduced above in this section.

ing in operational plannings and measures. Signed, Halder, on 2 February 1940." Now will you look at the second page of that document and see if your name is listed there?

A. Yes. All the OKH is set down, and then from the outside agencies all the commanders in chief of army groups and of the armies. It is quite clear that, of course, the commanders in chief of the armies or the commanders in chief of the army groups could not be excluded from the operational intentions. But that isn't planning.

Q. Well, this specifically refers to the planning of "Case Yellow," which was the invasion of the Low Countries.

A. It does not mean that it is a planning.

Q. It refers, does it not, to planning for "Case Yellow" which was an invasion of the Low Countries?

A. In this document here? I cannot understand that from this document here, 2 February 1940.

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENDANT HOTH*

DIRECT EXAMINATION

* * * * *

DR. MUELLER-TORGOW (counsel for defendant Hoth): You stated that the Corps Headquarters after the Polish campaign was transferred to Cologne and subordinated to the Fourth Army. Now, all the documents contained in Supplementary Volume Document Book 15, in connection with the Western Campaign, are supposed to incriminate you. They are Exhibits 1391-1397, inclusive. General, as the term, "aggressive war" is not of interest from the point of view of international law in the case of the Western Campaign, we should merely like to know how far you participated in the violation of Dutch and Belgian neutrality. First, I should like to ask you how your records were made, the records constituting the first of these documents, NOKW-2717, Prosecution Exhibit 1391?

DEFENDANT HOTH: They are records made by me in my own handwriting. I made these notes at the time because of the address which Hitler had made at the end of November before the high ranking leaders. They were to serve me as a record for conferences which I wanted to have with my commanding officers, and

* Complete testimony is recorded in mimeographed transcript, 29, 30 April, and 3, 4 May, 1948, pp. 3036-3289.

which, in fact, I did have with my commanding officers. Hitler, at that time, instructed us in a very intense manner to make the troops familiar with the thought that in this year, still in this year, operations in the West would be started. I, therefore, thought it was my duty to comply with this request. About the endeavors of the top military levels to avert the Western Campaign, I only heard in the course of this trial.

Q. Would you please summarize what Hitler said in this conference regarding the neutrality of Holland and Belgium?

A. I can do that only with certain reservations, and only on the basis of notes which I myself made here. Hitler mentioned in this connection, and we knew that ourselves, that the bulk of the mobile Anglo-French forces, that is the motorized Anglo-French forces, were concentrated on the Franco-Belgium frontier, and he, Hitler, expected that in all probability these forces would invade Belgium in order to attack the Ruhr area, which area was of decisive significance for our warfare. In this connection Hitler talked about the facilities which would thereby be given to the enemy to make air attacks on Germany, and especially on the Ruhr. I myself knew that we constantly received intelligence that camouflaged French forces were at the Maas River in Belgium, but these views were not confirmed and yet they kept cropping up. I myself witnessed in Cologne how in good weather at night British airplanes were not merely attacking the city of Cologne and throwing bombs, but also attacking localities in the proximity which were without any military significance; and it was known to us that these airplanes were approaching us via Holland and Belgium. Hitler told us at the time that he was expecting with certainty that the enemy would violate the neutrality of the Netherlands and that he, Hitler, would be able to give us better reasons for the counter measures which we had to take than was the case in 1914, because in the first place, we were already at war with the Western Powers, and the air sovereignty of Belgium had certainly already been infringed by the enemy.

Q. Was it certain as to whether advanced French Air Forces were already stationed in Belgium?

A. I said before, there was news coming in again and again to that effect; but, of course, it was not certain.

Q. Document NOKW-2813, Prosecution Exhibit 1395. There is a preparatory order about attack in the so-called "S Case". What does "S Case" mean?

A. I should like to go over the document just for a few minutes because I am not quite familiar with all these documents

here. Yes, that means "Sofort Fall" or "Immediate Case." It was issued at New Year's. At this time there must have been intelligence available (which I do not recall in detail, and I probably never heard of it at that time), about the impending violation of the neutrality of the Netherlands by the Anglo-French forces, and for such a case it was intended that the forces concentrated on the German-Belgian frontier were to cross the border immediately without waiting for the rear echelons to advance too. In such a case the order for invasion was to be issued on the eve of the day. That is, if on Wednesday morning the invasion was to take place, the order was to be issued on Tuesday afternoon, i.e., on the eve of the actual date of invasion. That was the "Immediate Case." There were other cases too, which provided more time for deployment and for marching into the enemy territory.

Q. When the order to invade Belgium was actually issued, did you think that the conditions applying to the "S Case," were actually in existence? Did you, that is, take it that this invasion was, tactically speaking, a reaction to measures by Western Powers, in order to use a term in your order?

A. Yes, I was bound to think so; I recall that I was attending an artillery shooting at a training center some distance from Cologne, when at noon or in the afternoon the order reached me, that on the next day the invasion of Belgium was to take place. I know all the circumstances, because it was really troublesome for me to convey this order to the troops in good time; and I was in great anxiety whether we would really be successful in crossing the border on the following morning. This case then had occurred, this "S Case," that is the case in which it was confirmed that the opponent had violated the neutrality of the Low Countries.

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON SALMUTH*

DIRECT EXAMINATION

* * * * *

DR. GOLLNICK (counsel for defendant von Salmuth): Now, I should like to discuss the western campaign with you. Did you remain in Poland or did the army group receive any orders to take over another sector? And, if so, where?

DEFENDANT VON SALMUTH: On the 3d or 4th of October we received the order to take over the West.

* Complete testimony is recorded in mimeographed transcript, 12-14 May 1948, pp. 3899-4177.

Q. At that time what was the situation at the western front?

A. We knew the following: France and England had declared war on Germany. French forces had broken into German territory at the Saar River. British Air Forces were flying over Germany's territory via Belgium and Holland. On the other hand there was on the western front, in the area which was to be assigned to Army Group B (as this army group was called from now on), a very strict order not to violate the frontier in any way.

Q. I put to you now Document 2329-PS, that is, Prosecution Exhibit 1147.¹ What order did the army group receive at that time?

A. It was an order of the OKH dated 7 October. This order stated that it was the task of Army Group B to protect the German frontier from the Ems Estuary onwards. Army Group B for this purpose is to hold the western fortifications; resistance is to start at the frontier; that means, in other words, resistance against an attacking enemy. Simultaneously Army Group G, in accordance with special instructions, is to make all preparations for marching into Dutch or Belgian territory immediately in the event that the political situation makes this necessary. The order for such an invasion will be given by the OKH. Until such time any violation of the frontier is to be avoided.

Q. I now put to you Document NOKW-2586, Prosecution Exhibit 1148.² Was that instruction issued and, if so, what did it contain? I believe it is on page 164 of your document book.

A. Yes, just a moment. On 15 October, this order arrived and in paragraph 1, it says: "Directives for Army Group B. Army Group B is to be prepared to invade Holland and Belgium in the event that the enemy enters Belgium or Dutch territory."

Q. Now, on 29 October, the army group received the instructions for the deployment; that is contained in the same document.

A. Yes.

Q. What was the substance of this directive?

A. In this directive for the deployment approximately the same is said. Paragraph 1 states: "General intentions. The Western Powers' attitude may necessitate a German offensive in the West." That to us meant the same as was contained in the order of 15 October, namely, the political situation had changed or would change, if the French or British entered Belgium or Holland from the other side.

¹ Document reproduced above in this section.

² Ibid.

Q. What developments arose after that? What happened after that? Did Hitler's intentions of offensive action become more generally known?

A. Yes, it gradually seeped through that Hitler for his person wanted to carry out an attack.

Q. And what was the attitude of the three commanders in chief of the three army groups stationed in the West towards these aggressive intentions?

A. That resulted in the conference mentioned previously by Field Marshal von Leeb. This conference took place in Koblenz and the three commanders in chief of the army groups attended. The purpose of this meeting was to prevent the war, at least any offensive action. From that date onward, I believe the resistance of the army group against this offensive started.

Q. Do you know how your commander in chief, General von Bock, thought this resistance ought to be carried through?

A. General von Bock had the following point of view: He thought that with political reasons and statements you could not achieve anything with Hitler because he rejected such statements as coming from soldiers. He would simply say: "You soldiers don't know anything about the political situation. I can judge it better." He was right in as much as we didn't know the political situation. As a consequence, General von Bock restricted himself to enumerating purely military reasons in order to make it very clear to the Fuehrer that this offensive could not be successful in view of the forces which we had at our disposal.

Q. In which manner and to whom, were these statements made?

A. General von Bock drafted a memorandum, together with me, and that was sent to the Commander in Chief of the German Army. In this memorandum he put down what I said earlier on. Above all, he pointed out that in the case of a violation of neutrality of Belgium and Holland which would also have severe international consequences—the immediate events of the war would be strongly influenced. This would be the case because the entire armed forces of those two countries would join the enemy side and would thereafter be an asset to the enemy. If that were to happen, the abundance of tasks which were put to the army group, the whole objective which was put to it, could not possibly be achieved. The attack would fail under all circumstances.

Q. What else did the headquarters of the army group state as misgivings?

A. What General Halder testified here, happened. The Commander in Chief of the German Army was supported by reports

which were sent to higher levels and which stated the lack of equipment of the German troops and the inadequate training, the lack of bridging columns which we would have needed in order to cross the many rivers; and there was also talk about the weather conditions, etc.

Q. What was Hitler's reaction to these representations? He certainly heard about them. Do you remember a speech which he made at the Reich Chancellery, a speech addressed to the commanders in chief who were ordered to appear there on 23 November 1939?

A. Yes.

Q. Were you present?

A. I cannot tell you that for certain. I don't know whether I was there myself. One thing I know for certain, I am fully informed about what went on during that conference.

Q. And what did Hitler do at that time? What did he say in his speech?

A. Hitler had recognized our resistance. He took stringent steps against it. In this conference he called the generals cowards, and he reproached us that we old soldiers didn't understand the soul of our youth. And why did all that happen? Because we, the agencies who were responsible for telling him such truths, had, after the Polish campaign, openly and frankly reported what went on among the troops, what the atmosphere was among the troops, etc.

Q. Did he utter any threats at that conference?

A. Yes. He said: "I shall destroy him who resists me." That was sufficient, and proof that he could transfer his threats into action. He showed us in 1934, in the Roehm action.

Q. What were the sentiments among the commanders in chief after this conference of Hitler's had taken place?

A. They became more and more pessimistic.

Q. The resistance which you mentioned, the resistance on the part of the commanders against offensive action against France, did that exert a certain influence, and, did it have a certain success?

A. I feel inclined to believe that these resistance activities were partly responsible for the fact that the offensive was delayed until May.

Q. What was the opinion of the army group command concerning the fact whether Belgium would observe neutrality?

A. We were of the opinion that Belgium had already violated her neutrality because it had become known that secret general staff conferences had taken place between Belgium and France. Our radio reconnaissance service revealed in spring the constant presence of small French units in Belgium, the bulk of the Belgium Army was facing us; whereas, on the Franco-Belgian frontier, British tanks and motorized units, and also all kinds of French forces were being deployed.

Q. Did you realize at that time that Dutch neutrality also was not to be observed?

A. That was rather different. In spring we were under the impression that Holland wanted to join Germany, we thought that because of a rather peculiar reason. Pursuant to a direct order from the Fuehrer, at the start of the invasion, German paratroopers were to be dropped near Rotterdam, immediately in the capital, The Hague, the seat of the government, and the Queen; and also near the large Schelde bridges at Breda and Dordrecht.

Q. But would that not have meant the opposite?

A. No. It seemed to us that this measure was so absurd from a military point of view, doomed to failure from the very start; that we couldn't conceive of these measures as a military operation at all. Our reasoning went as follows: We thought the impression is being given here as though Holland wanted to join up with Germany, but Holland could not do that voluntarily on its own decision because of its relations towards England; because of colonial and commercial reasons it has to preserve its attitude towards England; Holland there needed a certain pressure so that it should look as though it were joining Germany forcibly. That this reasoning proved to be wrong, I admit quite frankly, but after all that is not our fault.

Q. If an order was given to march, was there any possibility for either you or the army group to observe Belgium's and Holland's neutrality and to transfer the resistance in the army group into action?

A. If the OKH ordered the invasion, then we had to start the invasion.

Q. But perhaps you could have resisted by preparing the advance too slowly, etc. Couldn't you have done something? What happened?

A. I would like to put a rhetorical question. What were we supposed to be responsible for? What was the commander in chief of the army group responsible for? He was responsible for the lives of some hundreds of thousands of decent German soldiers and to

risk the lives of these German soldiers wasn't very well possible. Only one conclusion could be drawn from this fact, and that was to make the best of what could be done, and the best would have been a victory for the German forces. If we had acted in any different way, then at that time the Germans would have sent us to the gallows; and if now any super-clever man turns up here and says: "According to paragraphs 47 and 48 of the Penal Code, you could have gone to the Fuehrer and told him you were not going to execute any of the criminal orders," he should remember what Hitler said on the 23d of November: "I will destroy anyone who resists me," and he would have fulfilled that threat; and if he didn't dare to [sic] with General von Bock and Field Marshal von Rundstedt then all those of us who would have joined them would have found ourselves one day in a straight jacket in an insane asylum.

Q. Perhaps you could briefly discuss the events which occurred during the war in the area of the army group after the beginning of the Western Campaign?

A. The army group was composed of the 18th Army on the right flank and the 6th Army under Reichenau on the left flank, and crossed on the first day of the attack the Maas River. Despite the fact that all bridges, except one, had been blown up, the crossing occurred comparatively quickly. Field Marshal von Kuechler succeeded, fortunately because of the one remaining bridge at Namur, in very quickly activating the forces dropped from planes near Breda and Rotterdam. Five days after the beginning of the invasion, the Dutch Army capitulated. That was unexpected. Two weeks after the advance had started, the Belgian Army capitulated. Through that, more than 30 divisions of the enemy front were eliminated.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. NIEDERMAN: You have testified that when you saw the Green Plan you didn't believe Hitler would attack Czechoslovakia, and when you received the White Plan you didn't think Hitler would attack Poland. When you received the Yellow Plan, did you think you were going to attack the Low Countries?

DEFENDANT VON SALMUTH: We would never have attacked the Low Countries alone.

Q. You still weren't convinced after these first two plans. Now,

were you convinced after you attended the conference of 23 November 1939? Do you recall that?

A. Well, I have testified that I am not quite sure whether I myself attended the conference. At any rate I agreed that I was fully informed of the substance of the conference. I also testified on direct examination, and I should be greatly mistaken if that were incorrect, I have testified that Hitler said at the time that he wanted to start the offensive. I should be greatly mistaken if I didn't testify to that.

Q. Yes. You recall also, I have it before me, the quotation, "The permanent sowing of mines on the English coast will bring England to her knees. However, this only can occur if we have occupied Belgium and Holland. No one will question that when we have won." Do you recall that quotation from the speech?

A. I read it now again in the documents. I know it is contained in the document.

Q. Well, if you had heard that quotation again after 23 November 1939, there wouldn't have been much doubt remaining in your mind that you were going to attack the Low Countries, would there?

A. It wasn't an attack on the Low Countries. If it started, it would be an attack against France or England, respectively.

Q. Through the Low Countries?

A. Yes, marching through the Low Countries, as it had been ordered for the army group, through Holland and Belgium.

Q. Now I would like to show you Halder's diary, NOKW-3140, Prosecution Exhibit 1359,* I would like to direct your attention to the entry for 17 January 1940. Do you see it? "Talk with Salmuth on effects of these Belgian measures, and effects on Fortress Holland. Transmit to chief operations section to pass them on to air force and OKW." That is on page 10 of the English document. What is referred to there? Do you see the entry for 17 January?

A. Yes, I have it.

Q. What is referred to?

A. I cannot say any longer however much I try what this is about. I assume that the note on the bottom of the preceding page about the Belgian alert to the west of Maastricht, Dutch preparations for demolitions in Maastricht.

Q. You believe that note refers to—

A. I believe there is some kind of connection between the two,

* Ibid.

that the Chief of Staff had telephoned me and asked me, "What is the matter, any matters which are in any way alarming? Are the Belgians going to take any measures and will that have any effect on Holland?" But I can't tell you however much I try.

Q. Why do you think Halder called on you to answer those questions?

A. Because the army group at that time was facing this area. That was along our road of advance.

Q. So early in January 1940, you had a planned road of advance into Holland and Belgium?

A. This is already stated in the deployment order of October 1939. It is quite obvious, isn't it?

Q. Yes, I think so. Now, there has been testimony that Hitler confined knowledge concerning planned invasions to those persons who were most immediately concerned. You recall that testimony?

A. Yes. I don't know whether you are alluding to the famous Hitler Order No. 1, according to which only the persons involved were to be informed about what they necessarily had to know.

Q. That is right.

A. Because that was known to me.

Q. You were included in that group, were you not, you were to be notified concerning the Low Countries, Holland and Belgium invasions?

A. Politically no, not I, but the command of the army group; not I, myself, but the army command received the order, and that was for their information, for otherwise we would not have known what was going on.

Q. Well, I will show you Document NOKW-2588,* which is not yet in evidence. You will see that this is an order from Halder stating that, "In the sphere of the army, the officers listed on the attached roster are without limitation participating in operational plannings and measures," dated February 1940, and then, if you will turn the page, you will see that your name is listed as one of those who is without limitation to participate in the planning.

A. That must be an error. This roster, I think, was submitted on some other occasion. This roster contains the commanders in chief of the army groups, of the armies, and their chiefs of staff. It concerns such matters as they could deal with, that is, such matters as they actually received, but it is not evident from this that we actually received them. It is quite clearly revealed by the docu-

* Document reproduced above in this section. See also cross-examination of Field Marshal von Kuechler on the same subject, in this section.

ment that we received our deployment orders and that was all. Of course, we had to deal operationally with this deployment order. We were not allowed to transmit 100 percent of this deployment order. I received all the deployment order from the chief of the army group, I received 100 percent knowledge of it, but I was not allowed to divulge all the order to lower echelons, but had to split it up, as it were.

Q. No, you were not permitted to divulge it, but you certainly, after looking at this, would say that every operational measure planned concerning this invasion was within your knowledge.

A. No.

* * * * *

3. THE OFFENSIVE IN THE SOUTHEAST AND EAST a. Greece and Yugoslavia

PARTIAL TRANSLATION OF DOCUMENT 2719-PS¹
PROSECUTION EXHIBIT 1171

DECREE ISSUED BY STATE SECRETARY OF THE FOREIGN OFFICE
TO GERMAN DIPLOMATIC MISSIONS, 28 APRIL 1938

Decree

Berlin, 28 April 1938

As a result of the reunion of Austria with the Reich we have gained new frontiers with Italy, Yugoslavia, Switzerland, Liechtenstein, and Hungary. These frontiers will be regarded by us as inviolable. In this respect the following special declarations have been made:

* * * * *

3. Yugoslavia

The Yugoslav Government has been informed by authoritative German circles that German policy had no aims beyond Austria and that the Yugoslav frontier would in no case be affected. The Fuehrer and Reich Chancellor then said in his speech² in Graz on 3 April of this year that Yugoslavia and Hungary had taken the same attitude as Italy towards the reunion of Austria. We

¹ See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. V, pp. 378-380, for more complete translation of document.

² Extracts from a speech by Hitler on 1 June 1939 (TC-92, Pros. Ex. 1172), on the occasion of a dinner in honor of the Prince Regent of Yugoslavia, are not reproduced herein. *Ibid.*, vol. VIII, pp. 536-537.

were lucky, he said, in having here such frontiers that we were relieved of the trouble of defending them militarily.

* * * * *

[Signed] WEIZSAECKER

PARTIAL TRANSLATION OF DOCUMENT 444-PS*
PROSECUTION EXHIBIT 1173

FUEHRER DIRECTIVE NO. 18 TO ARMY, NAVY, AIR FORCE,
AND OKW, 12 NOVEMBER 1940, CONCERNING FUTURE
PROSECUTION OF THE WAR

Fuehrer Headquarters, 12 November 1940

The Fuehrer and Supreme Commander of the Armed Forces
Armed Forces Operations Office Department National Defense (I)

No. 33356/40 Top Secret, Matter for Chiefs

[Stamp]

Matter for chiefs

10 copies—4th copy

Through officer only

[Handwritten] 55

Directive No. 18

The preparatory measures of Supreme Headquarters for the prosecution of the war in the near future are to be made along the following lines:

1. *Relations with France.*—The aim of my policy towards France is to cooperate with this country in the most effective way for the future prosecution of the war against England. For the time being, France will have the role of a “nonbelligerent power”—she will have to tolerate German military measures on her territory, especially in the African colonies, and to give support, as far as possible, even by using her own means of defense. The most pressing task of the French is the defensive and offensive protection of their French possessions (West and Equatorial Africa) against England and the de Gaulle movement. From this initial task France’s participation in the war against England can develop fully.

For the time being, the conversations with France resulting from my meeting with Marshal Pétain are being carried on—apart from the current work of the armistice commission—entirely by the Foreign Office in cooperation with the Supreme Command of the Armed Forces.

More detailed directives will follow at the close of these talks.

* Ibid., vol. III, pp. 403–407, for translation of entire document.

2. *Spain and Portugal.*—Political steps to bring about an early Spanish entry into the war have been taken. The aim of German intervention in the Iberian peninsula (code name Felix) will be to drive the English out of the western Mediterranean. For this purpose—

a. Gibraltar will be taken and the Straits closed.

b. The British will be prevented from gaining a foothold at another point of the Iberian peninsula, or the Atlantic Islands.

The preparation and execution of this operation is intended as follows:

* * * * *

4. *Balkans.*—The Commander in Chief of the Army will make preparations for occupying the Greek mainland north of the Aegean Sea in case of need, entering through Bulgaria, thus making possible the use of German Air Force units against targets in the eastern Mediterranean, in particular against those British air bases which threaten the Rumanian oil area.

In order to be able to face all eventualities and to keep Turkey in check, the use of an army group of an approximate strength of ten divisions is to be the basis for the planning and the calculations of deployment. It will not be possible to count on the railway leading through Yugoslavia for moving these forces into position.

So as to shorten the time needed for the deployment, preparations will be made for an early increase in the German Army mission in Rumania, the extent of which must be submitted to me.

The Commander in Chief of the Air Force will make preparations for the use of German Air Force units in the southeast Balkans and for aerial reconnaissance on the southern border of Bulgaria, in accordance with the intended ground operations.

The German Air Force mission in Rumania will be increased to the extent proposed to me.

Bulgarian requests to equip their army (supply of weapons, ammunition) are to be given favorable consideration.

5. *Russia.*—Political discussions have been initiated with the aim of clarifying Russia's attitude for the time being. Irrespective of the results of these discussions, all preparations for the East which have already been verbally ordered will be continued.

Instructions on this will follow as soon as the general outline of the army's operational plans has been submitted to, and approved by, me.

6. *Landing in England.*—Due to a change in the general situation it may yet be possible or necessary to start operation "Sea

Lion" * in the spring of 1941. The three services of the armed forces must, therefore, earnestly endeavor to improve conditions for such an operation in every respect.

7. *Reports of the Commanders in Chief.*—I shall expect the commanders in chief to express their opinions of the measures anticipated in this directive. I shall then give orders regarding the methods of execution and synchronization of the individual actions. In order to assure secrecy, only a restricted staff will work on these plans. This applies particularly to the operations in Spain and for the plans concerning the Atlantic islands.

[Signed] ADOLF HITLER

[Initial] J [Jodl]

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Commander in Chief of the Navy, (1st Sec. Naval War Staff)—
2d copy
Commander in Chief of the Air Force, (Air Force Operations
Staff, Ia)—3d copy
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Staff)—4th copy
Dept. National Defense—5th–10th copies

TRANSLATION OF DOCUMENT 1541-PS
PROSECUTION EXHIBIT 1175

FUEHRER DIRECTIVE NO. 20, 13 DECEMBER 1940,
CONCERNING OPERATION MARITA

Top Secret

Fuehrer Headquarters, 13 December 1940

12 copies—9th copy

The Supreme Commander of the Armed Forces
OKW/Armed Forces Operational Staff
Department National Defense No. 33406/40
Top Secret, Matter for Chiefs

Top Secret

Matter for Chiefs
Through officer only

[Initial] W [Warlimont]
[Initial] v. T [v. Tippelskirch]

* "Sea Lion" was the codeword for the planned invasion of Great Britain.

Directive Number 20

Operation Marita

1. The result of the battles in Albania is not yet decisive. Because of a dangerous situation in Albania it is doubly necessary that the British endeavor to create air bases under the protection of a Balkan front be foiled since this would be dangerous, above all, to Italy as well as to the Rumanian oil fields.

2. My plan, therefore, is—

(a) To form a slowly increasing task force in southern Rumania within the next months.

(b) After the setting in of favorable weather, probably in March, to send this task force for the occupation of the Aegean north coast by way of Bulgaria, and, if necessary to occupy the entire Greek mainland (Operation Marita). The support of Bulgaria is to be expected.

3. Necessary for the *concentration of the task force* in Rumania are—

(a) The 16th Panzer Division which arrives in December on an army mission, and whose task remains unchanged.

(b) Following will be a task force of about seven divisions (final wave) to be dispatched to southern Rumania. Engineers in the required strength for the preparation of the Danube crossing can conveniently be attached for transport to the 16th Panzer Division (as instructional troops). The Commander in Chief of the Army will await my decision for the proper moment for them to be employed on the Danube.

(c) Preparations are to be made for further transport to take in the calculated maximum for the Operation Marita (total of 24 divisions).

(d) It is the mission of the air force to give air protection to the concentration, as well as to prepare the necessary primary and reserve installations on Rumanian soil.

4. The *Operation Marita* itself is to be prepared on the following basis:

(a) The primary mission of the operation is the occupation of the Aegean coast, and the Bay of Salonika. It may be necessary to continue the attack across Larisa and the Isthmus of Corinth.

(b) Flank protection against Turkey will be the task of the Bulgarian forces, although it is to be secured and strengthened through the alerting of German forces.

(c) It is not certain whether the Bulgarian forces will take part

in the attack. Likewise the Yugoslavs' position cannot yet be clearly determined.

(d) It will be the mission of the *air force* to support the drive of the army in all phases, to liquidate the opposing air force, and, as far as possible, to occupy British strong points on the Greek islands through airborne landings.

(e) The question in which fashion the Operation Marita is to be supported by the Italian forces, and how coordination of the operations is to take place, awaits a later decision.

5. The military preparations, which will produce exceptional political results in the Balkans, demand the exact control of all the necessary measures by the General Staff.

The transport through Hungary and the arrival in Rumania will be reported step by step by the General Staff of the Armed Forces, and are to be explained at first as a strengthening of the German Army mission in Rumania.

Consultations with the Rumanians or the Bulgarians which may point to our intentions, as well as notification of the Italians are both subject to my consent; also the sending of scouting missions and advanced parties.

6. After the completion of the Operation Marita, it is contemplated to use the bulk access of the forces used therein for a *new undertaking*.

7. I anticipate reports of the chiefs concerning their plans, which have already taken place as regards the army. I want to be presented with exact timetables for the planned preparations, as well as for the necessary recallings from the armament industry, (reconstruction of Furlough Divisions).

[Signed] ADOLF HITLER

Certified:

[Signature illegible]
Captain, GSC

Distribution:

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PARTIAL TRANSLATION OF DOCUMENT SCHNIEWIND SKL 506
SCHNIEWIND DEFENSE EXHIBIT III

EXTRACTS FROM THE WAR DIARY OF THE NAVAL WAR STAFF,
1-31 DECEMBER 1940, CONCERNING OPERATION MARITA

* * * * *

9 December 1940—Discussion on the situation with the Chief of
the Naval War Staff

Particulars * * * .

* * * * *

2. Forwarded by OKW—

a. * * *

b. Marita, beginning of March.

16 December 1940—Discussion on the situation with the Chief of
the Naval War Staff

Particulars:

1 . * * *

2. Report of Ia pertaining to the instruction Fuehrer Directive
No. 20, Operation "Marita".

See documents: Fuehrer's Directives.

23 December 1940—Strategy in the Mediterranean—

English aid to Greece seems to consist of the following: Accord-
ing to the reports so far submitted, altogether about 10,000-
15,000 British on the Greek mainland and on the islands. They are
mostly members of air force, naval artillery for protection of the
coast and antiaircraft formations. Besides units of the air force,
3 infantry battalions seem to be stationed in Crete only. As far
as material is concerned, it is probable that 200-250 planes (14
flights, 5 of which are in Crete), in addition uniforms, blankets,
equipment, about 30,000 rifles, 130 antitank rifles, 100 tanks, 48
field guns, 40 antitank guns, and 80 antiaircraft guns have been
delivered.

TRANSLATION OF DOCUMENT 448-PS
PROSECUTION EXHIBIT 1176

FUEHRER DIRECTIVE NO. 22, 11 JANUARY 1941, CONCERNING
MEDITERRANEAN CAMPAIGN, AND LETTER, 29 JANUARY 1941,
GIVING CODE NAMES FOR MEASURES IN DIRECTIVE NO. 22,
SIGNED BY DEFENDANT WARLIMONT

Fuehrer Headquarters, 11 January 1941

The Fuehrer and Supreme Commander of the Armed Forces
High Command of Armed Forces
Armed Forces Operations Staff/Department National Defense
No. 44018/41 Top Secret

[Stamp] *Top Secret* 13 copies—4th copy
[Stamp] *Through officer only*

Directive No. 22
Support by German forces in the campaign in the
Mediterranean Area

The situation in the Mediterranean area, in which England has committed superior forces against our allies, demands German assistance on strategic, political, and psychological grounds.

Tripolitania must be held, the danger of a collapse of the Albanian front must be averted. Over and above this, the Army Group Cavallero should be capable of starting the attack from Albania in connection with the later operations of the 12th Army.

I. Therefore, I order the following:

1. Blocking unit is to be organized by the Commander in Chief of the Army, which will enable us to render valuable service to our allies in the defense of Tripolitania especially against British armored divisions. The basis of its composition will be ordered separately.

The preparations are to be scheduled in such a manner, that this unit may be transferred to Tripolis attached to the currently running transports of an Italian armored division and a motorized division (about 20 February).

2. The X Air Corps will keep Sicily as an operational base. Its most important mission will be the combating of British Naval Forces and British sea communications between the western and eastern Mediterranean.

In addition, with the aid of auxiliary landing fields in Tripolitania, the main essentials for the direct support of Army Group Graziani are to be obtained by attacks on British ports of disembarkation and supply bases on the coast of western Egypt and Cirenaica.

The Italian Government has been asked to declare a prohibited area between Sicily and the North African coast in order to make the task of the X Air Corps easier and to avoid incidents with neutral ships.

3. German units with the strength of approximately one corps including the 1st Mountain Division and armored forces are to be provided and prepared for the crossing to Albania. Transportation of the 1st Mountain Division is to begin as soon as Italy's agreement is received by the High Command of the Armed Forces. In the meantime, investigations are to be made and the position is to be clarified with the Italian High Command in Albania, as to whether and what further forces can be advantageously employed in Albania in an attack with an operative objective, and how it can be continuously supplied at the same time as the Italian divisions.

The task for the German units will be—

a. First to serve as a reserve in Albania in case new crises should arise there.

b. To facilitate the future transition to the attack of the Italian Army Group with the objective—

To break through the Greek defensive front in a vital sector for a far reaching operation, to open the Narrows west of Salonika from the rear, thereby supporting the frontal attack of the Army "List."

4. The High Command of the Armed Forces with the Italian General Staff will determine the general directions for the chain of command of the German troops to be committed in North Africa and Albania, and for the limitations which are to be made concerning the deployment of these troops.

5. German transports suitable and available in the Mediterranean which are not being used on the convoy run to Tripoli, are to be earmarked for the transfer of the Albanian forces. For troop transports, the Transport Group Ju 52 located in Foggia is to be utilized.

Attempts must be made to complete the transfer of the German forces to Albania before the transport of the blockading unit to Libya begins (see section I) and use of the bulk of German shipping will be needed for that purpose.

[Signed] A. HITLER

[Initials] J [Jodl] 10/1

K [Keitel] 20/1

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Top Secret

Fuehrer Headquarters, 29 January 1941

Supreme Command of the Armed Forces

Armed Forces Gen. Staff Dept. L(1)

Immediate Action

Through Officer only

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Reference: The Fuehrer and Supreme Commander of the Armed
Forces

OKW/WFSt/Dept. L(1) No. 44018/41 top secret

11 January 1941

[Initials] K [Keitel]

J [Jodl]

The measures ordered in Directive 22 are to be designated by
the following code names:

Operation Tripolis—"Sonnenblume" [sunflower].

Operation Albania—"Alpenveilchen" [cyclamen].

The Chief of the High Command of the Armed Forces

BY ORDER:

[Signed] WARLIMONT

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PARTIAL TRANSLATION OF DOCUMENT NOKW-2625
PROSECUTION EXHIBIT 1177

LETTER BY WARLIMONT, 16 JANUARY 1941, CONCERNING THE
PASSAGE OF THE GERMAN ARMY THROUGH BULGARIA,
AND LETTER OF TRANSMITTAL OF TIMETABLE,
"MARITA," 19 FEBRUARY 1941

Top Secret

Fuehrer Headquarters, 16 January 1941

High Command of the Armed Forces

Armed Forces Operations Staff/Department National Defense (I)
Foreign

No. 44031/41 Top Secret, Matter for Chiefs

[Handwritten]

1st Section No. 6064/41

Top Secret, dated

17 January 1941

[Stamp]

Matter for Chiefs

Through officer only

11 copies—2d copy

A. The Reich Minister for Foreign Affairs has given the following instruction to the German Envoy in Bulgaria:

1. "Will you please immediately see the Bulgarian Prime Minister or Minister of Foreign Affairs or both, again.

"Please reply that the Reich Government agrees to the immediate commencement of discussions between the two general staffs. It also agrees that the discussion should not under any circumstances take place in Sofia. It was our intention to suggest Vienna for this purpose. Since then, however, Field Marshal List* has left for Rumania. It should be noted, however, that he does not intend to conduct the conferences with the Bulgarian staff officers himself, but wanted to have them carried on by his chief of staff. He was anxious, however, to be kept informed currently concerning the staff conferences. The best method,

* Defendant in case of United States vs. Wilhelm List, et al., Case No. 7, vol. XI.

therefore, would be to conduct the discussions at the headquarters of Field Marshal List's Army [AOK] in Rumania. It is not as yet known where the headquarters of the AOK of Field Marshal List would be situated. It is certain, however, that it will not be Bucharest, but some smaller place. As soon as the place has been decided on, we shall ask the officers of the Bulgarian general staff to come there, possibly in civilian clothes in order to avoid unnecessary sensation.

* * * * *

"In connection with the military problems, mainly for your own information, but also for appropriate application, the following comments are added:

"The starting date for the march through Bulgaria has not yet been definitely set. It is subject on the one hand, to the conclusion of the German troop concentration on the southern frontier of Rumania, and on the other hand, to weather conditions, in particular the ice condition of the Danube. In any case it is the intention of the Reich government to start marching through as early as possible. It is to be presumed that this will be possible in about 3 weeks. However, the marching through will not commence until enough troops have been concentrated on the southern frontier of Rumania to ensure the military protection of Bulgaria in every respect. On the whole, it is planned to assign German troops in such strength as to make them more than equal to any task and to any emergency from whatever side it may come.

"As is known, the Bulgarian Army will have no active part whatsoever in the military operation. It will be carried out solely by German troops.

"The German troops are self-supporting in regard to food and fuel supply, so Bulgaria's own supply will not be affected by the marching through."

Field Marshal List has been informed by the High Command of the Armed Forces (foreign countries) prior to his departure in the afternoon on 15 January 1941.

B. This action in Sofia puts into effect the regulation announced in High Command of the Armed Forces/Armed Forces Operations Staff/Department National Defense/Foreign Countries No. 44016/41 Top Secret, dated 11 January 1941—

The uniformity of *all* military discussions is to be ensured in future by the C in C of the 12th Army.

The Chief of the High Command of the Armed Forces

BY ORDER:

[Signed] WARLIMONT

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* * * * *

Fuehrer Headquarters, 19 February 1941

High Command of the Armed Forces

No. 33 460/41 Top secret

Armed Forces Operations Staff/Dept. National Defense (I Op.)
2. Ang.

[Handwritten notes] M V/3
53

[Stamp]

Top Secret

Through Officer Only

13 copies—3d copy

Reference: OKW/Armed Forces Operations Staff/Dept. National
Defense (I) No. 33 460/41

Top secret of 6 January 1941

Subject: Timetable "Marita".

Enclosed please find a new timetable "Marita." This supersedes
the timetable issued along with relative order.

The Chief of the High Command of the Armed Forces

BY ORDER:

[Handwritten] 1 enclosure*

[Signed] WARLIMONT

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Chief of the German Armed Forces Mission to Rumania—4th
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* Enclosure follows immediately below as Document G-59, Prosecution Exhibit 1181.

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[Stamp]

General Staff of the Air Force
1st Section No. 6176/41
Matters for Chiefs
21 February 1941

* * * * *

TRANSLATION OF DOCUMENT C-59
PROSECUTION EXHIBIT 1181

ORDER, 19 FEBRUARY 1941, DIRECTING FURTHER TACTICAL
MEASURES AGAINST GREEK TERRITORY

Top Secret

Fuehrer Headquarters, 19 February 1941

High Command of the Armed Forces
Armed Forces Operations Staff/Department National Defense
(I Op)
No. 44187/41, Top Secret

10 copies—2d copy

[Stamp]

Matter for Chiefs
Through officer only

On 18 February, the Fuehrer made the following decision regarding the carrying out of Operation "Marita."

1. The following dates are envisaged:

Commencement of building bridge.....28 February
Crossing of Danube.....2 March

The final order for carrying out the operation will be given on 26 February, at the latest.

It will be decided on 26 February, at the latest, whether the XIV Army Corps will march into Bulgaria when bridge building operations are begun or whether only antiaircraft forces will be moved in.

2. It is for the Bulgarians alone to decide if and when to lay mines off Varna and Burgas.

3. If air attacks are carried out against Bulgaria and Rumania from Greek territory, the X Air Corps has freedom of action in operations against Greek territory.

The Chief of the High Command of the Armed Forces

BY ORDER :

[Signed] WARLIMONT

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PARTIAL TRANSLATION OF DOCUMENT NOKW-2463
PROSECUTION EXHIBIT 1179

ACTIVITY REPORT OF THE VETERINARY OFFICER OF THE 50TH
INFANTRY DIVISION COMMANDED BY HOLLIDT

Division Veterinary Officer,
50th Infantry Division

After the division had been prepared for mountain warfare in the Riesengebirge during the months of December 1940 and January 1941, it was entrained at the end of January and reached its new billeting area south of Bucharest after a long railway trip in the first days of February.

* * * * *

On 6 May, the division started to march back through Greece and Bulgaria from the area of Salonika and had reached the area of Komotene with the first marching column on 15 May.

PARTIAL TRANSLATION OF DOCUMENT NOKW-2508
PROSECUTION EXHIBIT 1182

ORDERS, 19 FEBRUARY, 20 MARCH, 3 AND 5 APRIL 1941, FROM
HOLLIDT, CONCERNING PLANS FOR THE ATTACK ON GREECE

[Handwritten]

War Diary 9 Divisional Staff Quarters
19 February 1941

Top Secret

20 copies—18th copy

Division Order No. 1 for concentration and advance of the troops

I. *The 50th Division will march through Bulgaria*

This plan first requires—

a. Preparation and the carrying out of troop concentrations at the Bulgarian border.

b. Crossing of the Danube.

c. Entering into Bulgaria and passing of the Balkan mountain range. The preparations will be made in such a way that the assembly may be ordered any time *secretly* and at *short notice*. Mobile troops and other divisions will cross the Rumanian-Bulgarian border *ahead and on both sides of the division*.

II. *Assembly*

1. The code word for the deployment is "Yellow", (date of A-day). The code word can be expected on A-day minus 2 at the latest.

* * * * *

IV. *Marching through Bulgaria*

1. *Bulgaria* will offer no resistance to the marching through of the troops and will support the measures of the German leadership. At present, weak frontier guard units are stationed at the Greek and Turkish border.

2. March route—Ruse, Bjala, Trnovo [Tarnovo]. For the time being, the division will march behind the 164th Division.

3. *First march destination*—Trnovo.

V. *Miscellaneous*

1. *Camouflage*.—All measures for the preparation and carrying-out of the deployment at the Rumanian-Bulgarian border, as well as the deployment in Bulgaria will be carefully camouflaged—also with respect to the troops, that is—

a. *Until the beginning of the deployment as reinforcement of the instruction units.*

b. *During deployment as evacuation of the former billeting area for newly arrived troops.*

c. After entering Bulgaria—as long as the situation permits—as protective measures against imminent Turkish attack on Bulgaria.

Conferences with Rumanians and Bulgarians, which might give a clue as to the German intentions are prohibited.

Instructions to the necessary extent must be limited to such persons as are required absolutely to be informed.

2. The *overtaking of elements of the Motorized March Group 164*, is prohibited, also for single vehicles of the Motorized March Group 50 which do not possess a special pass from the corps headquarters.

3. Special attention is drawn to *the pamphlet* issued as enclosure 8.

4. The Division Command Post will be in Giurgiu as of A-day plus 2 in the evening.

[Initial] M [Marten]

[Signed] HOLLIDT

Distribution:

Regiments and independent battalions

50th Infantry Division
Section Ia

Division Command Post, Chaskovo
20 March 1941—1530 hrs

[Handwritten] 65 War Diary

Division Order No. 18 for the advance on 21 March 1941
(Map 1:100,000)

1. On 21 March 1941, the *50th Division* will continue the advance with all elements of March Group A and with the horse-drawn elements of March Groups B and C.

* * * * *

[Signed] HOLLIDT

Distribution:

Same as Divisional Order No. 17

50th Infantry Division
Section Ia No. 80/41 Top Secret

Division Command Post, 3 April 1941

[Handwritten] 5 enclosures 73b

22 copies—17th copy

Division Order No. 26 for Deployment and Attack
(Map 1:100,000)

1. *Enemy.*—Apparently the Greeks evacuate the area east of the Nestos River and secure the border crossing points with weak frontier guard units only, whereas they apparently intend to defend effectively the area west of the Nestos behind the river line.

An offensive advance of *Turkish* forces is *not* to be expected.

News concerning occupations by and entrenchment works of enemy troops south of the border on *both sides of the passroad* will be sent to the Assault Unit 123d Inf. Regt. separately.

2. *On X-day at Y-hours*, the *50th Division* will cross the Greek border by way of a surprise attack, without previous artillery fire, on both sides of road IV, and will advance regardless of losses via Komotine toward *Xanthe*. By means of an advance formation, the division must occupy the Nestos crossing southwest of *Xanthe* as early as possible in order to be able to push forward towards *Kavalla* without loss of time.

Weak forces will occupy harbors and the coast of Porto Lago and Alexandroupolis as soon as possible; will prevent enemy troops from landing on the coast; and will secure the advance of the division in the flank and in the rear.

* * * * *

[Signed] HOLLIDT

* * * * *

[Handwritten] 73 c

Enclosure 1 to Division Order No. 26
Special Regulations to Division Order No. 26

1. I again expressly point out the "Basic Order" of the Fuehrer. Within the absolutely necessary extent, every officer, noncommissioned officer, and enlisted man may only receive knowledge of what, at the time, he *absolutely* must know.

2. *Careful camouflage and black-out* gain higher importance, owing to the employment of enemy air forces to be expected after the assembly.

3. *Bulgarian Army*.—Nothing has changed as regards the deployment and the tasks of the Bulgarian Army. Bulgarian forces will not take part in the attack on Greek territory, not even by firing from Bulgarian territory.

Subordination of Bulgarian troops is not planned.

* * * * *

[Stamp] Top Secret

[Handwritten] War Diary 86

[handwritten] 75

50th Infantry Division

Section Ia No. 95/41 Top Secret

Division Command Post, 5 April 1941

23 copies—17th copy

Division Order No. 28

1. *X-day* will be 6 April 1941.
2. *Y-hour* will be 0520 hrs, i.e. earliest hour for crossing the border and/or opening of the hostilities.

* * * * *

FOR THE DIVISION COMMAND

The First General Staff Officer

[Signed] MARTEN

Distribution:

Same as Divisional Order No. 26

PARTIAL TRANSLATION OF DOCUMENT NOKW-2554
PROSECUTION EXHIBIT 1183

EXTRACTS FROM WAR DIARY OF THE NAVAL WAR STAFF
(SECTION I), 7 AND 24 MARCH 1941, CONCERNING THE
INVASION OF GREECE AND THE U.S.S.R.

War Diary of the Naval War Staff (section I)
from 1-31 March 1941

Chief of Naval War Staff: Admiral of the Fleet Raeder

Chief of Staff of Naval War Staff: Vice Admiral Schniewind

Chief of Section 1 of Naval War Staff: Commodore Fricke

7 March 1941

* * * * *

10. For the case "Marita," as High Command of the Air Force mining action in the Gulf of Athens has been rejected for the time being.

11. New OKW directives see I op. 372/41, Top Secret Matter for Chiefs.

For the case "Marita" the occupation of the entire mainland of Greece including the Peloponnesus is planned. Further to be occupied are the islands of Thasos and Samothrake. The navy is to examine the possibilities of procuring shipping space.

Allocation of shipping space available, according to 12th Army directives, first for contact with Lemnos after her occupation by the air force, and next for the occupation of Thasos and Samothrake.

Formation of Liaison-Staff Albania (liaison officer of the navy also to be appointed, if required).

24 March 1941

For case "Barbarossa," the assignments for the 12th Army will be amended because of more commitments, caused by "Marita." Protective duties for "Barbarossa," mining of the Russian Black Sea ports. The directive contains operational directives for the army in the eastern campaign and the instruction to take relevant defensive measures to meet Russian preventative measures against the Rumanian oil territory, against Rumanian or Bulgarian ports, in the Petsamo region and in the Baltic Sea.

It depends on the development of the situation whether the carrying through of an offensive in North Africa shall commence now, after the additional assignment of the 15th Armored Division or in the fall.

12. Preparations for the occupation of Lemnos are to be carried on in accordance with the suggestions of the air force. The attack against Greece will start 1 April.

Paratroop forces are not available for the occupation of the Cyclades, army support for the capture with seaplanes is desired. (I op. 359/41, Top Secret, Matter for Chiefs)

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2555
PROSECUTION EXHIBIT 1185

EXTRACTS FROM WAR DIARY OF THE NAVAL WAR STAFF
(SECTION I), 26 MARCH 1941, CONCERNING REPORTS FOR
OKW IN ACCORDANCE WITH "MARITA" DIRECTIVE

War Diary of the Naval War Staff (section I)
from 1-31 March 1941

Chief of Naval War Staff: Admiral of the Fleet Raeder
Chief of Staff of Naval War Staff: Vice Admiral Schniewind
Chief of Section 1 of Naval War Staff: Commodore Fricke

Special Questions

26 March 1941

* * * * *

4. Complying with OKW directives "Marita"—"Barbarossa" of 22 March, the reports ordered are to be sent to the OKW; at the same time report is to be made that the Italian Admiralty Staff is being contacted via the Chief of the Naval Liaison Staff in Rome for making preparation for all matters connected with cooperation in the Aegean Sea. (See current file, "Marita.")

5. The Admiral Southeast, the Coast Commander Greece and the Chief of the German Naval Mission in Rumania will be informed about all questions resulting from the OKW directive "Marita" dated 22 March. (See current file "Marita.")

PARTIAL TRANSLATION OF DOCUMENT NOKW-2542
PROSECUTION EXHIBIT 1190

EXTRACT FROM WAR DIARY OF NAVAL WAR STAFF (SECTION I),
CONCERNING INVASION OF YUGOSLAVIA AND GREECE,
AND THE SUBSEQUENT DIVISION OF YUGOSLAVIA

War Diary of the Naval War Staff (section I)
from 1-30 April 1941

Chief of Naval War Staff: Admiral of the Fleet Raeder
Chief of Staff of Naval War Staff: Vice Admiral Schniewind
Chief of Section 1 of Naval War Staff: Commodore Fricke

Situation Conference with chief of Naval War Staff

1. Report by Ia on OKW directive concerning "Marita"—Decision on starting time for "Marita" and "Operation 25" (Yugoslavia) will be made this evening at 2000 hours. Last Fuehrer

decision, 4 April. On the night before start of operations seizing of area "Iron Gate" (Orsova), in order to prevent blocking measures by the Yugoslavs. According to the Fuehrer's decision the following distribution of Yugoslavia's territory is planned:

Dalmatia-Montenegro to Italy.

Banat Territory to Hungary.

Old Austria to Germany to Carinthia—Styria.

Croatia—autonomous state.

Old Serbia under German Military Government.

From Greek territory, Macedonia goes to Bulgaria!

Reconnaissance over Greek territory (Piraeus and British airfields) to be authorized immediately.

PARTIAL TRANSLATION OF DOCUMENT 1746-PS*
PROSECUTION EXHIBIT 1180

REPORT OF FUEHRER CONFERENCE ON YUGOSLAVIA, 27 MARCH
1941 AND FUEHRER DIRECTIVE NO. 25, 27 MARCH 1941, PLUS
SPECIAL INSTRUCTIONS CONCERNING DIRECTIVE NO. 25
ISSUED BY THE OKW, 29 MARCH 1941

Armed Forces Operations Staff

Berlin, 27 March 1941

[Stamp] Top Secret

[Stamp]

Matter for Chiefs

Through officer only

1st copy—Armed Forces Operations Staff

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3d copy—Armed Forces War History

Conference on the Situation in Yugoslavia

Present:

The Fuehrer

The Reich Marshal

Chief High Command of the Armed Forces

Chief Armed Forces Operations Staff

Major General Bodenschatz

Col. Schmundt

Commander v. Puttkamer

Lt. Colonel Scherff

Major v. Below

Major Christian

* See Nazi Conspiracy and Aggression, *op. cit. supra*, vol. IV, pp. 272-279, for more complete translation.

The following were called in during the conference:

Commander in Chief of the Army
Chief of the General Staff of the Army
Col. Heusinger
Lt. Colonel Sieverth
Reich Minister for Foreign Affairs
Minister Hewel
Brig. General v. Waldau
Col. Schmidt
Brig. General v. Rintelen

The Fuehrer explains the situation in Yugoslavia after the *coup d'etat*. He states that Yugoslavia had long been an element of insecurity with a view to the prospective Operation Marita and even more to the Operation Barbarossa, planned for a later date. The Serbs and Slovenes were never pro-German. The cabinets in power never had a firm hold on the country because of the problems created by the different nationalities and because of the camarillas of officers inclined to *coups d'etat*. In the present period, the country had only one strong man, Stojadinovic, whom Prince Regent Paul allowed to be overthrown to his own disadvantage.

For political as well as for military reasons, the moment in which the real situation in the country and its attitude toward Germany was actually disclosed, is propitious for us. If the government had been overthrown during the Operation Barbarossa, we should have experienced much more serious consequences. The Fuehrer is determined not to wait for any professions of loyalty which may be made by the new government, but to start forthwith all preparations necessary to smash Yugoslavia by military action and to make an end of her as a state. In the field of foreign politics, no ultimatum nor inquiry will be forwarded. Assurances by the Yugoslav Government will simply be noted, as they cannot be trusted for the future anyway. The attack will start as soon as suitable means and forces are assembled.

The main point is to act as rapidly as possible. An attempt will be made to assure the appropriate cooperation of the adjacent states. Italy, Hungary, and—to a certain extent—Bulgaria will be requested to render direct military support for the action against Yugoslavia. The main task of Rumania will consist in providing cover against Russia. The Hungarian and Bulgarian ministers have already been informed. A message to the Duce will be dispatched in the course of the day.

It is of particular importance politically to carry out the blow against Yugoslavia inexorably and ruthlessly and to smash her armed forces by a "Blitz" operation. This is likely to deter Turkey sufficiently and to have a favorable influence on our prospective

campaign against Greece. The Croats can be expected to side with us when we attack. In accordance with this, they will be promised a special political status (future autonomy). The war against Yugoslavia should be very popular in Italy, Hungary, and Bulgaria, as acquisition of territory can be promised to these states, viz the Adriatic coast to Italy, the Banat to Hungary, and Macedonia to Bulgaria.

It is essential for this plan that we speed up all preparations and that we commit forces strong enough to bring about the collapse of Yugoslavia within a minimum period.

In this connection, the beginning of Operation Barbarossa must be postponed for up to 4 weeks.

The military operations will be carried out as follows—

1. Operation Marita will start as early as possible. Its target will be restricted to the conquest of Greek Thrace and of the Salonika basin as far as and including the Edessa plateau; this requires a turning movement through Yugoslav territory.

2. Thrust toward Skoplje from the area south of Sofia in order to relieve the pressure on the Italian flank in Albania.

3. Thrust, to be made by considerable forces, from the area of Sofia toward Nis and on to Belgrade, in cooperation with

4. Thrust by a strong German Army Group from the Graz and Klagenfurt area toward the southeast, aiming at the smashing of the Yugoslav Army.

* * * * *

5. It is the main task of the air force to smash the ground installations of the Yugoslav Air Force as early as possible and to destroy the capital of Belgrade by repeated waves of raids.

For this purpose the Hungarian ground installations can be utilized.

The Commander in Chief of the Army—The operational plan as drafted by the Fuehrer is in accord with our own deliberations. Weather permitting, the Operation Marita can begin on 1 April, as planned. The remaining assault groups will be able to start operations between 3–10 April, according to the progress of their concentration. The query is raised whether the southern attack groups, in case they advance rapidly, are given a free hand for the continuation of Operation Marita. In principle, the Fuehrer answers in the affirmative; he insists, however, that the operations must not get out of hand but remain under a firm direction.

The Commander in Chief of the Army will submit his intentions in writing before 0300 hours.

The Commander in Chief of the Air Force reports that air raids can be started immediately from Bulgaria by the VIII Air Corps, but that the air force needs two or three more days for a stronger concentration of air forces. It is intended to bring up strong formations of fighter planes and dive bombers into the Vienna and Graz areas and into Hungary; possibly, forces of the X Air Corps will be flown to jumping-off bases in southern Italy. Reinforcements of antiaircraft protection of Vienna, Carinthia, and Styria will be provided.

The Fuehrer directs that all measures of preparation be started immediately. He expects submission of the intentions of the branches of the Armed Forces by the evening of 27 March. General von Rintelen is ordered to report to the Fuehrer in the night from 27-28 March, in order to receive the message of the Fuehrer and further oral directives.

[Stamp] Top secret

Fuehrer Headquarters, 27 March 1941

The Fuehrer and Supreme Commander of the Armed Forces
OKW/Armed Forces Operations Staff/Dept. National Defense

(I Op) No. 44379/41

Top Secret Matter for Chiefs

[Stamp]

Matter for Chiefs

Through officer only

13 copies—copy No. 11

Directive No. 25

1. The political situation in the Balkans has been changed by the military coup in Yugoslavia. Even in case of professions of loyalty, *Yugoslavia* must be considered an *enemy*; therefore, she must be smashed as rapidly as possible.

2. It is my intention to penetrate Yugoslavia by way of converging operation *in the general direction of Belgrade and toward the south*, starting on the one hand *from the area Fiume—Graz*, on the other hand *from the Sofia area*, to annihilate the Yugoslav Armed Forces, and furthermore to *isolate the most southerly part of Yugoslavia from the rest of the country*, in order to occupy it as a basis for the continuation of the German-Italian offensive against Greece.

* * * * *

5. The commanders in chief will submit to me, through OKW a report on their operational intentions on the problems related thereto.

Signed: ADOLF HITLER

Certified:

[Signed] BORNER
Captain.

Distribution:

- Commander in Chief of the Army (Operations Section)—copy No. 1
- Commander in Chief of the Navy (Naval War Staff, for information)—copy No. 2
- Commander in Chief of the Air Force (Air Force Operations Staff)—copy No. 3
- German General at HQ. of the Italian Armed Forces—copy No. 4
- Chief of the German Armed Forces Mission to Rumania—copy No. 5

OKW:

- Armed Forces Operations Staff—copy No. 6
- Department National Defense—copy Nos. 7-11
- Office Foreign Counterintelligence—copy No. 12
- Armed Forces Signal Communications—copy No. 13

Top Secret

High Command of the Armed Forces
Armed Forces Operations Staff/Dept. National Defense (IV/Qu)
No. 44388/41 Top Secret Matter for Chiefs

Reference: OKW/Armed Forces Operations Staff/Dept. National
Defense (I Op.) No. 44379/41

Top secret Matter for Chiefs dated 27 March 1941

Fuehrer Headquarters, 29 March 1941
30 copies—copy No. 30

[Stamp]
Matter for Chiefs
Through officer only!

Special instructions concerning Directive No. 25
(Operation Twenty-Five)

I. *Theater of operations and executive power*

* * * * *
891018-51—61

3. *The Yugoslav territory* to be occupied by *German* troops in the course of the operations will be treated as an *operational area of the army*. The Commander in Chief of the Army is authorized to exercise the executive power in this area and to delegate it to the commanders in chief of the armies.

Speedy registration and seizure of the *stocks of raw material* existing in the areas occupied by the German troops is a priority task. Further pertinent directives will be transmitted to the Commander in Chief of the Army by the Plenipotentiary of the Four Year Plan.

* * * * *

IV. *Personnel, Freight and Communications Traffic*

* * * * *

3. When our troops have entered Yugoslav territory, the embargo on frontier traffic on the German-Yugoslav border will be maintained for all kinds of nonmilitary traffic including persons, goods, and communications.

This embargo includes leading personalities and representatives of the Supreme Reich authorities and of Party authorities. OKW/ Armed Forces Operations Staff will notify the Supreme Reich Authorities and the Party authorities in good time. Exemptions from the embargo on frontier traffic will be decided by Commander in Chief of the Army and the departments to which this authority is delegated by him.

Applications for entry permits will be addressed to Commander in Chief of the Army exclusively.

* * * * *

The Chief of the High Command of the Armed Forces

Signed: KEITEL

Certified:
[Illegible signature]

Captain, GSC

PARTIAL TRANSLATION OF DOCUMENT NOKW-249
PROSECUTION EXHIBIT 1191

LETTER FROM DEPARTMENT NATIONAL DEFENSE TO ARMED
FORCES OPERATIONS STAFF, 6 APRIL 1941, ENCLOSING
DESIRES OF THE ARMY AND THE AIR FORCE FOR
COOPERATION WITH ITALY

Top Secret

Fuehrer Headquarters 6 April 1941
File 25 K

Department National Defense
No. 44478/41 Top Secret (I Op.)
Matter for Chiefs
Through officer only

6 copies—6th copy

Subject: Italy.
To Armed Forces Operations Staff

Enclosed please find—

1. Desires of the army for cooperation with Italy.
2. A suggestion as a basis for a letter by the Fuehrer to the Duce.
3. Desires of the air force, transmitted by telephone, for co-operation with Italy.

Signed: WARLIMONT

Certified:
[Signature illegible]
Captain, GSC

Distribution:

Armed Forces Operations Staff—1st copy
Department National Defense:
Chief/War Diary—2d copy
IH—3d copy
IK—4th copy
IL—5th copy
IV—6th copy

Top Secret

*Enclosure to Dept. National Defense No. 44478/41
Top Secret (I Op.)*

Top Secret
Through officer only

Generally speaking, the campaign in the Balkans is divided into three stages.

1st stage—Union of the German forces in Bulgaria with the Italian Army Group Albania, thereby separating the opponent into two groups: northern group, Serbians; southern group, Greek and British.

The thrust towards and beyond Skoplje serve this purpose. Starting from the southwestern corner of Bulgaria, another attack with a limited objective is launched by a German force towards

the basin of Salonika; other elements push through Thrace to the Aegean Sea.

The *Italian forces in Albania*, during this stage, while falling on the defensive at the remaining fronts, will have the task to work their way from the west as far as possible towards the German forces advancing in the direction of Skoplje.

2d stage—Destruction of the Yugoslav Army by a concentric attack. For this will be used the German Assault Group for Nis, on 8 April; the Assault Groups Temesvar and Graz—N. Kanisza, on 12 April; the Hungarians towards the general line Gradiska—Novi Sad, on 14 April.

It is improbable that the Serbians will be in a position to launch an attack of their own with appreciable forces against the Italian Second Army. At all events the German Second Army is ordered to demonstrate its presence with partial forces on the Wurzen Pass.

It is desirable that the Italian Julian Army, after the German Second Army has launched its attack (12 April), should advance as soon as possible in a general southeasterly direction. A demarkation line between the Allied forces will be fixed according to expediency by the two general staffs directly.

For the advance of the right wing of the German Second Army, considerable importance is attached to the road from Celje via Novo Mesto to Karlovac.

In *Albania* there may still exist, at that time, a certain danger on the northern front (Scutari), which is, however, not regarded as too serious, in view of the initiated Italian reinforcements and of the strength of the Italian air task forces which can be concentrated at the center of any attack if required. In spite of this, no strong assault groups are likely to be available on the Greek front before the Yugoslavs are finally disposed of.

3d stage—The full scale attack against the Anglo-Greek forces will presumably be possible only when the Yugoslav Army has suffered a crushing defeat, and merely part of its forces will still be holding out in the Bosnia and Hercegovina highlands. It is desired that the Italian forces should then attack, above all in the direction of Corizza, as well as from Tepelone in the direction of Janina [Iaonnina]; whereas it will be the task of the German Twelfth Army to push on across the mountain ridge Edessa—Olympus into the Larisa Basin and after that farther on to the south. It cannot yet be foreseen whether such an operation will after all be possible already at an earlier stage.

As for the *Italian Air Force* it is desired that it should launch attacks with the strongest possible combat teams against the Yugoslav air bases *assigned to it*.

In addition to an adequate air defense in Albania, it is desired that the fighter units in North Africa be reinforced for the protection and support of the operations under way there, since the German units available there are extremely weak at present. Likewise, the Italian Air Force must provide for sufficient convoy protection to North Africa.

EXTRACT FROM THE TESTIMONY OF DEFENSE WITNESS
FRANZ HALDER*

DIRECT EXAMINATION

* * * * *

DR. LATERNER (counsel for defendant von Leeb): Now to deal with the Greek campaign: Were there any military plans for an attack against Greece? I do not mean the period of time immediately before the beginning of that campaign, but a longer period preceding that campaign.

WITNESS HALDER: In the late autumn of 1940—I no longer recall the exact date—an OKW order was received, to make a number of forces available in Rumania so that they could be committed via Bulgaria for the purpose of preventing the formation of a British air base in the coastal area of the Aegean.

Q. General, do you know whether any of the defendants here participated responsibly in the over-all planning of the campaign against Greece?

A. No.

Q. Now I have just been advised to ask you what you mean by "no". Is it that you don't know, or didn't they participate?

A. None of these gentlemen participated in the over-all planning, and none of them were responsible for it as far as I know.

Q. Simultaneously Yugoslavia was attacked.

A. I beg your pardon, in the execution itself, both these two matters were completely separate, only concerning the period of time did they coincide; actually they were separate.

Q. How did it happen—now, I am not interested in the political aspect, I am particularly interested in the technical and military aspect—how did it happen that the campaign against Yugoslavia came about?

A. The military actions were the result of the political decision.

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948, pp. 1817-64, 1867-2155.

Q. And how were you informed of this political decision?

A. On the day when the *coup d'etat* in Belgrade took place, Field Marshal von Brauchitsch and I were called away from a conference suddenly to the Reich Chancellery. We didn't know what it was all about. Hitler received us with the words: "I have decided to annihilate Yugoslavia." And the second question which was put to me was, "How long do you think you will need to get the troops moving?" The whole subject was a completely new one to us.

Q. In what kind of position did this new aspect put you? Can you give us a brief description?

A. Seen from the military point of view it was one of the strangest situations during my whole tenure of office. There was not the least theoretical preparation for this action, because only shortly before that Yugoslavia had joined the Tripartite Pact as a friendly nation. We had no war maps concerning Yugoslavia at all. The German Army was then in a state of regrouping, partly regarding personnel and partly regarding matériel. This was done with a view to a possible campaign in the East. The majority of the divisions were not in a state of readiness to be used at once. Therefore, the necessary forces—I might put it this way—had to be gathered together from half of Europe. I recall that part of them were called in from the Biscay area and another part from the North Sea area, and yet another part from the East Prussian area, and all that took place without any preparation at all.

Q. There is another question which is almost superfluous but which I would like to put for the record. Who was a responsible participant in the over-all planning of this particular campaign?

A. After the order had been given, the following participated in the over-all planning: The responsible departments of the High Command of the Armed Forces and the High Command of the Army.

Q. And who of the defendants here?

A. No one.

* * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT SCHNIEWIND*

DIRECT EXAMINATION

* * * * *

DR. MECKEL (counsel for defendant Schniewind): Let us now deal with the campaign against Yugoslavia and Greece. The prose-

* Complete testimony is recorded in mimeographed transcript, 25-27 May 1948, pp. 4791-4957.

cution charges you with corresponsibility for this campaign, apparently because you saw and initialled some of the orders connected with these campaigns. Do you know from whom the planning and the impetus for these operations originated?

DEFENDANT SCHNIEWIND: I have no exact information about that. I can only give you my opinion, but I can't give you any proof for it. It is my opinion that these ideas originated with Hitler himself.

Q. Did the navy in any way participate in this planning?

A. The navy did not participate in any way in this planning.

Q. In order to clarify my question, I am referring to the first plans for the directive.

A. Yes, that is what I meant, too.

Q. How did you, in the Naval War Staff first receive information of these plans?

A. In the late fall of 1940, the Naval War Staff received a comprehensive decree of Hitler, and in this decree a survey had been given about the general military political situation. It was discussed in this what military tasks would exist in the next year or in the near future for the various branches of the services.

Q. May I interrupt? Your Honors, this concerns Document 444-PS, Prosecution Exhibit 1173.*

A. In that rather extensive document certain tasks for the various branches of the service were indicated, tasks in the African theater of war, in the Mediterranean; the seizure of Gibraltar was discussed, auxiliary measures for Italy in the Balkans were discussed, and in it, for the first time, the Greek problem was officially mentioned.

Q. What is said about the Balkan problem in this decree?

A. In this decree, in section 4, it is stated, "The Commander in Chief of the Army will make preparations for occupying the Greek mainland north of the Aegean Sea in case of need, entering through Bulgaria, thus making possible the use of German Air Force units," etc. What kind of political preconditions were supposed to exist and what, "in case of need," was to mean, is not actually stated in the decree.

Q. Admiral, please finish the sentence.

A. The last part of the sentence which I just started reads: "attacks are to be directed in particular against those British air bases which threaten the Rumanian oil area."

* Document reproduced above in this section.

Q. Were there any events which allowed such misgivings, and did you have any information which made it seem likely that these misgivings were justified?

A. Here again I have to refer to a document which we found in French archives, but which at that time were in our hands. From these documents it was clearly apparent that England and France, at a very early date, had cooperated in order firstly, to advance against the Rumanian oil area; and, secondly, also possibly to carry out air attacks on Russian oil territory; thirdly, to land troops on Greek soil in order to create a front there which was to wear down the German forces.

In all the considerations on the part of the Germans the factor was probably also decisive that particularly in the Balkan area, we had made certain experiences in the First World War.

Q. Did you have any information perhaps concerning the fact that the Greeks could not or would not maintain their neutrality?

A. Such information was also available. That was also clearly apparent from the documents which we had found in France.

Q. If it please the Tribunal, I shall include those documents in my document books and submit them in evidence before this Court. In the middle of December, Directive No. 20 was issued. If Your Honors please, this is Document 1541-PS, Prosecution Exhibit 1175.* That directive states that when more favorable weather starts, probably in March, a task force was to be committed to seize the north Aegean coast. Were you surprised by this directive?

A. The Naval War Staff was really no longer surprised by this directive because at that time the Naval War Staff already had information to the effect that the British had landed forces on Greek soil.

Q. When was that, what date?

A. We received that information, and this ought to become apparent from the War Diary of the Naval War Staff, in December 1940. First of all, it concerned only air forces and apparently ground organizations, but weaker forces of the British Army had also been landed.

Q. I believe there is an error. The ground organization means the ground organization of the British Air Force. When did the British land with larger forces in Greece?

A. That happened during the first days of March 1941.

* Ibid.

Q. Could that landing be regarded as purely a measure to support Greece against Italy?

A. It could be such a measure for support of Greece against Italy. A conscientious observer had, of course, also to take into consideration the fact that the British forces which had landed in Greece might also pursue other aims and intentions; they could direct their efforts towards the north, to the Greek-Hungarian border territory and, at least, create air bases there in order to take action in the direction of Rumania.

Q. What was your personal viewpoint?

A. It was my personal opinion that the landing of British forces in Greece had, as its main task, the drive to the northern territory.

Q. On what did you base this attitude of yours?

A. That was pretty soon seen in as much as the British forces advanced towards the north into the Epirus-Thessaly area as far as the Olympus area, and that air reconnaissance via Bulgaria was carried out over Rumania.

Q. Did Admiral Raeder make any suggestions to Hitler in that respect?

A. At the moment I cannot remember the exact date, but on one occasion Admiral Raeder made the following suggestion to Hitler: in the event that parts of Greek territory would have to be occupied, it would be correct to occupy the whole of Greece.

Q. Do you know for what reason Raeder made this suggestion?

A. Today I can no longer remember the reason which he gave at the time, but of course there can be only one trend of thought which makes this suggestion understandable. With this appearance in Greece and in the whole Greek area, he wanted to exclude the possibility of any threat of a flanking movement from Greece.

Q. In the discussions on 27 March about the situation in Yugoslavia, the day after the *coup d'état* in Yugoslavia, was the navy represented?

A. No, the navy was not represented there.

Q. Did the navy in any way participate in the theoretical or practical preparation of the operations against Yugoslavia?

A. No, the navy did not participate in any way in that.

Q. I will now have Document 1746-PS passed to you. That is Prosecution Exhibit 1180.* It is Directive No. 25, dated 27 March

* *Ibid.*

1941. Is it intended in this directive to commit the navy in the fight?

A. No. No participation of the navy is provided in that directive. In addition, it was sent to the High Command of the Navy, Naval War Staff, only for informational purposes.

Q. That can be gleaned from the distribution list which is on the last page. To what extent did the navy participate at all in the whole operation against Yugoslavia and Greece?

A. As far as Yugoslavia is concerned, the navy did not participate at all, as I said. Concerning the operation against Greece, the occupying army units were followed by a few naval units which were to deal with the occupation of ports, and from those ports, to deal with the transport to the Greek islands. They were to organize the port traffic and to reorganize the shipping.

It was not intended to have the navy participate in the actual fighting.

* * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT WARLIMONT¹

DIRECT EXAMINATION

* * * * *

DR. LEVERKUEHN (counsel for defendant Warlimont): We will now deal with the Balkan campaign. The first document I wish to discuss is Document 444-PS, Prosecution Exhibit 1173.² Before you refer to the contents of this document, I would like to ask you what was known to you before the beginning of the Balkan campaign about events in this area and about the plans of the German leadership?

DEFENDANT WARLIMONT: In the second half of October 1940, Keitel and Jodl accompanied Hitler on a trip to France, in the course of which Hitler met Marshal Petain and General Franco. During this time news was received by the Department National Defense in its headquarters stationed in a suburb of Berlin, that the Italians wished to proceed against Greece. This news originated from German agencies in Rome and could only be described by these German agencies as not verified, because the Italians refused any information.

Such a possibility to take military action in the Balkans or against Greece had not so far been considered by the Germans,

¹ Complete testimony is recorded in mimeographed transcript, '21-25, 28-30 June, 1, 2 July, 1948; pp. 6312-7103.

² Document reproduced above in this section.

and it had never occurred in the German military plans or considerations. Therefore, as soon as I was able to establish connection with Hitler's special train, I called up Jodl and directed his attention to those rumors which caused some misgivings. At the same time I tried, by making inquiries in Rome, to ascertain whether these rumors were correct.

I very soon received Jodl's reply that at Hitler's headquarters and in his entourage nothing was known about such rumors and that they were not believed. From Rome, in spite of my endeavors, I merely received further rumors, but no authentic information. However, these rumors became so numerous and I transmitted them to Jodl all the time, that Hitler decided to break off his trip in France and to proceed at once to Italy to meet Mussolini. He met Mussolini in Florence, but only arrived in the morning of the day on which the Italians had attacked Greece in the early morning.

Q. Did Hitler agree with this Italian action, according to your observation?

A. According to everything I had heard from Jodl in the period just described, Hitler himself was absolutely against it. Later, I heard news from Hitler directly that he regretted very much indeed that Greece was to become a theater of war. The reasons which he adduced for his regret was, I think his predilection, which in this case sounded quite honest, his predilection for the ancient culture of which Greece was the home. Apparently the idea was repugnant to him that this country should be involved in the war. A confirmation of this view of Hitler can be seen in the fact that he released all Greek prisoners of war immediately after the Greeks surrendered.

Q. Now, what about this unexpected Italian operation? How did it work out?

A. The Italians scarcely succeeded in crossing the Albanian-Greek Frontier, thrusting south. On the contrary, they very soon encountered strong Greek resistance and in turn were involved in an extremely precarious situation.

Q. Was Germany called upon to draw any consequences from this in the light of the military alliance with Italy?

A. I do not know the provisions of our military alliance with Italy, because this so-called military alliance had been concluded without the participation of any German soldiers. The position at the time, however, quite clearly showed that Germany had to consider supporting Italy, because the relations between Italy and the alliance of the Axis Powers had been emphasized so constantly that a defeat of Italy was bound to be very detrimental to Germany as well.

Q. What conclusions were drawn? Is that shown by the document before you?

A. Yes. This directive dated 12 November 1940, which I have before me, states in section 4 that it is ordered that the Commander in Chief of the German Army was to make preparations and I quote, "for occupying the Greek mainland north of the Aegean Sea in case of need, entering through Bulgaria". Meanwhile as can be seen from the section just referred to, a further reason had been added for this order of Hitler. It had become known that the British had meanwhile established air bases for the British Air Force on Greek Islands in the Aegean Sea.

Q. Now what directives were issued pursuant to this and to whom were they directed?

A. The directives are contained in section 4, which has just been mentioned, and were limited for the time being to the fact that the Greek mainland north of the Aegean Sea was to be occupied in order to create a bulwark for the Rumanian oil region which would mainly be threatened from these British bases in the Aegean Sea.

Q. Had oral directives preceded this written version?

A. Yes, on that day on which this directive was issued, on 12 November 1940, High Command of the Army had already submitted the plans to Hitler in an oral report in accordance with the customary routine.

Q. And how far was your department involved?

A. I knew nothing of these plans, nor did I take part in the conferences regarding them. The facts recorded in this directive were based upon what Jodl communicated to me as being summaries of these conferences and plans. The Department National Defense never gave any data for these directives and instructions.

Q. I will now hand you Document 1541-PS, Prosecution Exhibit 1175.* What does this document contain?

A. It is a further directive of Hitler, signed also by Hitler, for the contingency of an extension of the fighting in the Balkans. It is dated 13 December 1940. Paragraph 7 of this document reveals that this directive was based on an oral report of the Commander in Chief of the German Army given in the meantime to Hitler.

Q. Now what was intended?

A. This directive amplifies the directives issued in November to the effect that the occupation of the whole Greek mainland had to be expected, if this should become necessary.

* Ibid.

Q. Does this reveal anything as to the state of British measures in the area?

A. Yes, it does. Paragraph 4 states that it was to be the mission of the German Air Force to occupy with airborne troops the British air bases and strong points on the Greek islands.

Q. What was the code name for this operation?

A. The code name, I think, was Marita, but I haven't found it yet in this directive.

Q. Would you please read to us the beginning of section paragraph 4.

A. I correct myself. In paragraphs 2(b) and 4, the operation is designated as Marita.

Q. How far was your department involved?

A. Again the letterhead reveals that no section working on this order is stated, and from this it is to be inferred that the Department National Defense did not take part in the editing of this directive, as had been customary in other cases. I, myself, was in Paris from 9 to 12 December 1940, and for that reason I probably had no say in editing this directive, and there is no symbol denoting any such participation.

Q. I will now put to you Document 448-PS, Prosecution Exhibit 1176.*

A. It is Directive 22 for the conduct of the war headed "Support by German forces in the campaign in the Mediterranean Area", dated 11 January 1941, signed by Hitler. The cooperation of the German forces, according to this directive, was to extend to the use of a sealing-off detachment in Africa, and to the transfer of a German unit to Albania to support the Italians directly.

Q. Was this plan carried out?

A. The first one was carried out, that is, the transfer of German units to Africa, but the second was not carried out.

Q. And how far was your department involved?

A. My department did not take any part in it. The directive apparently dates back to a conference between Hitler and Mussolini. The directive was apparently written in Berchtesgaden where Jodl and Keitel were at the time, whereas the Department National Defense was located near Berlin. This is revealed by both the heading of the communication, which again does not state a section as having drafted it, and also by the typography and the distribution list.

* Ibid.

Q. I will now put to you Document NOKW-2625, Prosecution Exhibit 1177.* This document consists of several parts. What does it contain?

A. The first part on pages 1 and 2 of the mimeographed copy contains the copy of a letter sent by the Reich Minister of Foreign Affairs to the German Ambassador in Sofia in Bulgaria. Its contents refer to the fact that the German Reich Government agreed to the resumption of talks between the Bulgarian and German General Staff. The purpose of these talks is stated in section 2 as being to settle the march of the German troops through Bulgaria. Apart from that, necessary measures were to be taken in order to protect Bulgaria against raids by the British Air Force while German troops were marching through the territory. This communication was sent to the Department National Defense apparently by the Foreign Counterintelligence Office of the OKW, and was forwarded by the Department National Defense for information, to such agencies as were to be informed.

Q. Who signed it?

A. Since it is merely a copy I myself signed it by order of my superior.

Q. And what is the second part about?

A. The second part on page 3 of the mimeographed copy, as the first lines indicate, contains some modifications of a directive which had been issued sometime previously, but which is not attached to this document. From the very first words you can see that these modifications had meanwhile been directed by Hitler. They refer to certain measures regarding the crossing of the river Danube and above all to the protection of Bulgaria against enemy air attacks.

Q. Now, what was at issue in this document, as far as the Department National Defense was involved?

A. Apparently there were some editorial amendments to the preceding directive. At any rate, there were no independent plans or decisions of the Department National Defense.

Q. The third portion of the document?

A. On page 4 of the mimeographed copy you find the cover letter for a new timetable for the Balkan operations. This timetable, however, is not attached.

Q. And whose signature is it?

A. Signed by me "by order of" my superior.

* Ibid.

Q. Now, this is followed by Document C-59, Prosecution Exhibit 1181.*

A. This communication dated 19 February 1941 informs the High Commands of the three services of the armed forces about the dates which Hitler had meanwhile fixed for the beginning of the attack for the establishment of the bridgeheads over the Danube, and for the crossing of the Danube itself. From paragraph 3 it is evident that the X German Air Corps was authorized to take action against Greek territory in case British air attacks against Rumania and Bulgaria came from that Greek territory.

Q. The next document—

A. I would like to state in addition that I also signed this directive "by order of", and I account for it by the fact that at the time Keitel and Jodl were in Berchtesgaden, so I received the mission by telephone in order to expedite the transmission of the order to its recipients.

Q. The next is Document C-127, Prosecution Exhibit 1187. This document deals with Yugoslavia. Would you briefly explain the course of events at the time in the Balkans, and how the events regarding Greece, which you have described now, are connected up with the events involving Yugoslavia?

A. At the same time in which the preparations just discussed—our preparations against Greece were made, diplomatic negotiations took place between Germany and Yugoslavia. The objective was to secure Yugoslavia's adhesion to the so-called three power agreements—the Axis Pact. Military agencies did not take part. These negotiations, however, were founded on a very weak basis from the very outset, because it is evident from the directives just discussed that during the campaign against Greece neither Yugoslav soil was to be entered upon by German troops, nor were Yugoslav railroads to be used even for supplies. Yugoslavia had thus been left completely out of the picture in these plans, with one exception, that Hitler had promised the Yugoslavs that they would gain Salonika. Contrary to the diplomatic negotiations which were concluded about the end of March 1941, and which secured Yugoslavia's accession to the three power pact, on 25 or 26 March 1941, a complete upheaval had occurred in the political situation in Yugoslavia. Hitler inferred, as I later learned, also a complete reversal of Yugoslav foreign policy and thought that it would be completely hostile to Germany.

Q. Now, what steps did Hitler take?

A. From this directive dated 27 March 1941, signed by Hitler, it is evident that he now regarded Yugoslavia, too, as an enemy,

* Ibid.

and that he issued the order to include Yugoslavia in the Balkan campaign. These events, which I recall definitely for certain reasons, were such that Hitler probably learned about the upheaval in Yugoslavia on the morning of 27 March 1941. Then at noon on 27 March he called the commanders in chief of the three services and a large number of escort officers for a conference, and on this occasion he announced his decision as laid down in this document.

Q. Where did it take place?

A. In the Reich Chancellery in Berlin. This directive was issued on the same evening.

Q. Did you or a member of your department attend this meeting with Hitler?

A. No, neither I nor a member of my department.

Q. And how far did your department participate in the drafting of this directive?

A. This directive in its letterhead shows the symbol "L" and the symbol of section "I Op". "L" is the Department National Defense. Nonetheless, it is shown that it cannot possibly have been worked out at the Department National Defense because the conference of Hitler and his orders only took place at midday between 12 noon and 2 p.m., and this directive was issued on the same day. Therefore, it could only have been written at best by the Department National Defense in a suburb of Berlin.¹ I cannot make any more specific statements about it because I was not present on that day.

Q. Had any new developments occurred in the Greek theater of war?

A. Yes. Meanwhile, elements of the British Army had landed on the Greek mainland.

Q. I will now put to you Document NOKW-249, Prosecution Exhibit 1191.² This is a report by the Department National Defense directed to the superior office chief, General Jodl, dated 6 April 1941. This report dates back to an order of Jodl to find out the desires of the army and air force for cooperation with Italy, because Italy also participated in the Balkan campaign with strong elements of the Italian air force. The Department National Defense, upon this order, found out the wishes of the army and the air force and then submitted them as an enclosure to this report to General Jodl. An excerpt from these desires of the army and

¹ Warlimont and a small staff of the Department National Defense were located at the Fuehrer Headquarters, while main Headquarters of the National Defense was located in a suburb of Berlin.

² Document reproduced above in this section.

air force was dealt with, which is mentioned in paragraph 2 of the cover letter. This excerpt was to serve as a basis for a letter which Hitler wanted to write to Mussolini in this matter. Therefore, it was not the Department National Defense which suggested that Hitler was to write to Mussolini, but the Department National Defense merely complied with the order that they were to ascertain the wishes of the army and the air force as data for such a letter. This compilation is contained in the following pages of the document; the contents are of a purely military nature; whether such a letter having these contents was ever written, I, of course, do not know.

Q. As you mentioned yesterday, this mode of sending letters was a customary way in which Hitler stated his views, wasn't it?

A. Yes, that was the manner in which Hitler tried to exert his influence in the matter of the cooperation of German and allied armies. There was no joint high command even in this case in the Balkan campaign.

* * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT HOLLIDT*

DIRECT EXAMINATION

* * * * *

DEFENDANT HOLLIDT: The division [50th Inf. Div.] was in the Riesengebirge from December 1940 until January 1941, and according to orders the division carried out winter maneuvers. For this purpose officers of the mountain troops, a few lieutenants, had been assigned to the division, and they were to instruct the division with regard to the carrying out of these exercises; then at the end of January the division received the order to be ready to be moved.

DR. FRITSCH: What I am most interested in, General, is did you know of the subsequent assignment of the division? Could you infer that from the type of training that had been ordered for you in the maneuvers?

A. No, I had no idea of what was pending for the division or for what purposes it was to be used. Of course, we had our own thoughts about it, that is self-evident. But in accordance with orders we exercised winter operations in the mountains, but I think it is not customary in any army to tell a formation about its impending assignment, for reasons of secrecy alone, because if

* Complete testimony is recorded in mimeographed transcript, 20-22, 24 May, 1948, pp. 4420-4678.

such information is disseminated to the troops, then it would be just the same as publishing it. We surmised at the time that somewhere in Europe we would be committed in mountain areas.

Q. And that was presumably—

A. Presumably as far as I could see, in winter.

Q. Now, when you received the order for removal, did you or could you prepare yourself for the assignment which you expected you would receive?

A. We prepared ourselves, in as much as we were not equipped for winter operations, with all types of vehicles, we winter-camouflaged our vehicles and guns, painting them accordingly, we had snow chains supplied to us, horses to carry loads, etc.

Q. Now, when did you hear about the direction along which you would march?

A. We received no order for marching off, but we received a transport order, which is to say, the division received certain instructions as to how the moving was to proceed, but they did not know where they were being sent. All I learned as divisional commander was from the advance personnel, that is, the personnel that was to be sent in advance, that the division was to go to Rumania, and that was only at the time when the advance personnel left.

Q. Did you hear about the purpose for which it was to be assigned in Rumania?

A. No, I had my own thoughts during the very long trip to Rumania as to what this was all about and it was only on arrival in Rumania—

Q. General, will you please talk a little more slowly?

A. —Only upon our arrival in Rumania, did I hear that the division was there to be used as instructors to the Rumanian Army.

Q. Were you yourself in charge of this instruction troop?

A. No, I was not in charge of the instruction troops, but the Division itself, was subordinate to the German Army mission in Bucharest with regard to this instruction task.

Q. Now did you actually work as instruction troops, or was that merely a camouflage?

A. Yes, the division was used as instruction troops. By way of troop exercises, of inspections, of lectures, and tactical discussions, we conveyed to the Rumanian officers a picture both of the organization of our division, as well as of the artillery in which they

were particularly interested, and also of the antitank weapons; and we communicated to them our tactical principles.

Q. I will now briefly revert once again to the Riesengebirge and the exercises which took place there. The prosecution claims that these matters were connected with the preparation of subsequent aggressive war. Now, were these exercises in the Riesengebirge in connection with the tasks and missions you had in Rumania?

A. No, there is no connection, which is evident from the fact that at the time of our exercises in the Riesengebirge we were doing exercises in snow. In Rumania however, the terrain is absolutely flat, and besides, at that time of the year there was knee-deep mud.

Q. Now, what was the further assignment of your division?

A. The division, approximately in the middle of February 1941, received the order to be ready for marching, so that, if such an order should be issued, they would be prepared to march into Bulgaria. It had been provided that the division was to cross the Danube at the large bridge spanning the Danube at Giurgiu in order to advance south to the Balkan mountains.

Q. That was in the direction of Bulgaria?

A. Yes, to march into Bulgaria and to proceed in the direction of the Balkan mountains, which are in about the center of Bulgaria.

Q. What about Bulgaria at the time?

A. As far as I learned at the time, this marching into Bulgaria took place in agreement with the Bulgarian Government, and I can recall this period only with great pleasure, because of the cordial reception which was accorded to my division in Bulgaria, a reception which could not have been more cordial even in Germany. As Bulgaria was a friendly nation, we found this perfectly in order.

Q. General, in that period, the affairs connected with Yugoslavia started, that is, matters with which you are charged here. Now, my question is, did you participate in the campaign which was just about to begin against Yugoslavia or what was the position of your division?

A. My division was committed in Bulgaria at that time and took part in no way in the campaign against Yugoslavia, nor was I informed about an imminent campaign against Yugoslavia.

Q. And now what about the Greek affair? Did you and the 50th Infantry Division participate in the campaign against Greece?

A. Yes. The 50th Division was one of the many divisions which invaded Greece pursuant to orders received. The division, which was at that time serving with the XXX Corps, received the order to cross the Greek border south of Tschetscherini [sic] and to proceed in the direction of Komotene. We received this order immediately before the beginning of the campaign.

Q. What do you mean by "immediately"?

A. "Immediately" means about 3 to 4 days before the crossing of the Greek frontier.

Q. Did you know about the political discussions regarding the Greek question? You had been in the field for a long time, hadn't you?

A. I heard nothing about any political discussions with the exception of what had been published on the radio. I did know that Italy was engaged in war against Greece and we had also heard that British troops had landed in Greece.

Q. I will now once again revert to your maneuvers with the troops of the 50th Infantry Division in the Riesengebirge. Now, were these exercises analogous to the purpose for which the division was to be used in Greece?

A. No. No connection could possibly be established between the two, because in the Riesengebirge mountains we were skiing mostly, whereas in this campaign we experienced temperatures as in summer.

Q. General, now regarding this question, I should like just briefly to discuss with you the documents you are charged with in this connection. Would you please turn to Document NOKW-2463, Prosecution Exhibit 1179.¹ Do you have any comments to make on the document, General? It has been submitted as expressly incriminating you.

A. This is a report by the division veterinary officer of the 50th Infantry Division, from which it is to be evident that apparently the division was in Greece. That is all I can say.

Q. Will you then turn to Document NOKW-2508, Prosecution Exhibit 1182.² I probably don't have to put particular questions to you about it.

A. This is a divisional order which was issued on the strength of a corps order for the assembly of the division before the advance into Bulgaria.

¹ Document reproduced above in this section.

² Ibid.

Q. So it has no bearing, if I understand you correctly on the Greek or Yugoslav question?

A. No.

Q. Now, regarding the same exhibit, will you turn to the Division Order No. 27, dated 3 April 1941.

A. This order was likewise based on an order by the corps.

Q. May I ask you, in connection with what matter?

A. In connection with the attack on Greece.

Q. Will you state the date?

A. It was issued on 3 April 1941; in accordance with the order, the division was to be ready on a certain day, on "X" day which had not yet fixed, to cross the Greek border.

Q. General, now when was this "X-day"?

A. "X-day" was 6 April 1941.

Q. Now, when was it that you heard of the order for the first time?

A. I issued the order 3 April 1941. That was three days before X-day, so it must have been shortly before that I received an analogous order from the corps.

Q. Do you mean by that, an interval of hours, weeks, or days?

A. Possibly one or two days before.

Q. Will you then turn to Exhibit 1188. It is Document R-95. The prosecution in their list of documents submitted against you, general, did not include this document. As, however, in the roster of forces the 50th Infantry Division is listed within the framework of the 12th Army. I would ask you to tell me whether, and if so at what time, you received this deployment directive of the High Command of the Army?

A. It was only here in Nuernberg that I heard of this deployment directive of the High Command of the Army. As I was a divisional commander at the time I could not have received such a deployment directive, because in the German Army a division receives either a marching order or an assembly order or a fighting order, but nothing more.

* * * * *

b. Union of Soviet Socialist Republics (U.S.S.R.)

PARTIAL TRANSLATION OF DOCUMENT NOKW-3140
PROSECUTION EXHIBIT 1359

EXTRACTS FROM DIARY OF GENERAL HALDER, JUNE 1940—MARCH
1941, CONCERNING PREPARATIONS FOR WAR AGAINST RUSSIA

Volume IV

* * * * *

30 June 1940, 1100. Conference with Weizsaecker—*

d. Britain will probably need one more demonstration of our military might before she gives in and leaves us a free hand for the East.

* * * * *

3 July 1940, [Conference with] von Greiffenberg—Discussion on—

a. Operational questions. The focal questions at the time are *Britain*, which will be treated separately, and the east. The latter must be chiefly viewed with reference to the military action necessary to force Russia to recognize Germany's dominant position in Europe. Special issues, such as the Baltic or the Balkan states may call for alternate approaches.

b. Organization of Army Gen. Staff. Greiffenberg must take over OQu.I Branch.

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22 July 1940, 1000. Conference with Commander in Chief of the Army [von Brauchitsch]—

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7. Stalin is flirting with Britain to keep her in the war and tie us down, so as to gain time to take what he likes, knowing that it could not be grabbed once peace has returned. He will be interested in not letting Germany become too strong. However there is no evidence that Russia is engaging in any activity against us.

8. The Russian problem must now receive our attention. We must begin to think over the possibilities. The following data has been given to the Fuehrer:

a. Assembly of German forces will take at least 4 to 6 weeks.

* Defendant in case of United States vs. Ernst von Weizsaecker, et al., Case No. 9, vols. XII, XIII, and XIV.

b. The objective is to crush Russian Army or seize as much ground as is necessary to prevent enemy air attacks on Berlin and Silesian industrial area. It is desirable to penetrate far enough to enable the air force to smash Russian strategic regions.

c. Political objectives—Ukrainian State, Baltic Confederation, White Russia, Finland. The Baltic States are a permanent thorn in the flesh.

d. Manpower required—80 to 100 divisions. Russia has 50 to 75 good line divisions. An attack on Russia next fall relieves air pressure on Britain. America can deliver goods to Britain and Russia.

e. Operations—What are the immediate operational objectives? What strength is available? Time and area of assembly? Avenues of attack—Baltic countries, Finland, Ukraine. Protect Berlin and Silesian industrial area. Protect Rumanian oil producing centers.

* * * * *

VON ETZDORF—*Russia and Britain*. The two want to get together. The Russians are afraid of compromising themselves in our eyes; they don't want war.

24 July 1940, *Hemmerich*—Preparations for the East. Military geography and maps. Future control of surveying service. Future organization of surveying detachments. Specifications for map drawing.

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27 July 1940, *von Greiffenberg*—*Feyerabend*—Operational possibilities in the East. A strong southern group is proposed. Total strength required, 100 divisions.—I would rather have a strong northern group, and lay my plans from the outset with the objective of forcing the probably strong southern group of the enemy to accept battle with an inverted front by a swift operation striking southward from Moscow.

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30 July 1940, *Commander in Chief of the Army*—The best answer to the question of whether the two-front war—which must come if we cannot force a decision against Britain, and Russia and Britain form an alliance—should first be waged against Russia—is keep on terms of friendship with Russia. A visit to Stalin would be desirable. Russia's aspirations at the Straits and the direction of the Persian Gulf need not disturb us. The Balkans are within our economic sphere, but we could very well keep out of each other's way down there. Italy and Russia will not hurt

each other in the Mediterranean. This being so, we could hit the British decisively in the Mediterranean, shoulder them away from Asia, help the Italians build their Mediterranean Empire and consolidate for ourselves, with Russian assistance, the empire we have carved out in northern and western Europe. With this accomplished we could confidently face war with Britain for years.

31 July 1940, *Fuehrer*—With Russia smashed, Britain's last hope would be gone. Germany would then be master of Europe and the Balkans.

Decision—It follows from this reasoning that Russia must be done away with. Spring 1941. The sooner Russia is crushed, the better off we shall be. Campaign achieves its purpose only if Russian State is shattered to foundation with one blow. Territorial gains alone will not do. Standing still during winter would be precarious. So it is better to wait a little longer now, with the resolute determination to eliminate Russia. This is necessary also because of situation on Baltic. It would be inconvenient to have another major power on Baltic. Let it be May 1941. Five months to finish job. To do it this year still would be best, but unified operation would be impossible now.

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30 August 1940, *Commander in Chief of the Army*—

a. * * *

b. Reorganization West and East. Rundstedt as Military Commander France, with Sixth Army within Army Group A, and also Army Group C under him. Bock will go east with 4th and 12th Armies as soon as possible. In case Rundstedt and Leeb should be needed in the East, Witzleben will take over as Military Commander France, together with several administrative army commands.

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23 September 1940, *Commander in Chief of Army*— * * *

e. Settling of question of *Military Administration France* after departure of OKH—

1. * * *

2. Once OKH has to devote all its attention to operations in the East, the post CinC West will be treated; CinC West will at same time be Military Commander France and have control over both troops and military administration in Belgium. Change over to this set-up only when circumstances require.

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Volume V

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29 November 1940, morning—Part I of war game Paulus (study for the East).

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OQu I—Disposition of Russian forces. Fortifications on the Russian side. Discussion of operational possibilities after achievement of immediate operational objectives.

3 December 1940, morning—War game OQu I (Eastern Campaign). Part II of operation up to attainment of line Minsk-Kiev.

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5 December 1940, *Minister Ritter*—Cooperation between departments of foreign office and army.

1500–1900. Conference with Fuehrer, Commander in Chief of the Army, myself, and General Brand (part of the time).

1. Review of political situation and intentions. (Details, see conference notes)

Decisions—Felix Operation as soon as possible. Latest F-day, 10 January 1941. The time interval between first air bombardment and start of artillery bombardment should be very short. The decision to carry through *Felix* is final.

“*Marita*—” carry out preparations as proposed at such a pace that enemy territory could be invaded early in March. Final decision still reserved.

“*Otto*—” all preparations based on our plans should now be set in operation. Tentative date—end of May.

“*Sea Lion*—” need not enter calculations.

Libya—no longer under consideration.

2. * * * * *

3. Details on “*Otto*—” a. The thing is to keep the enemy from taking evasive action.

b. Territorial objectives—Seize territory necessary for securing home country against aerial attacks. When objective is attained, combined operations will be carried out to destroy sources of enemy strength (munitions industry, mines, oil fields).

c. Purpose of campaign—To crush the enemy manpower; no troop units capable of rehabilitation must be left.

d. Partners—Finns, Rumanians. Not Hungary.

e. One division transferred from Narvik by train through Sweden, together with Dietl's 2 Mt. Divisions will make joint drive on northern flank, with objective—Polar Sea.

f. *Make the southern group strong*—The Russians must be beaten this side of the Dnieper. Concentrate air force on Dvina river crossings! All Russian forces this side of Dnieper must be destroyed.

g. Cut off Baltic area! The rest can be done by secondline divisions.

h. By strong pincers north and south of Pripet Marshes, enemy force must be split and finished off in separate pockets (similarly as in Poland). These two outer flanks must be very mobile and strong!

i. Moscow is of no great importance.

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13 December 1940, conference with chiefs of staff of army groups and armies. Morning—eastern operation, under the direction of Paulus. Noon—joint luncheon. Afternoon—military political situation. Reports by Op. Sec. Org. Sec., Konrad, Loyke, Trng. Sec. Central Br.

14 December 1940, continuation of conference with chiefs of staff of army groups and armies. Reports: General of the Air Force, Transp. Chief, General of Signal Corps, Foreign Armies West, Foreign Armies East.

16 December 1940, conference with—Commander in Chief of the Army.

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Jurisdictional powers of Army Headquarters in the East with respect to the wartime Chiefs of Corps Areas at home. Studies on the East worked out by Chiefs of Staff of army groups.

18 January 1941, *von Altenstadt*—a. * * *

b. Jews and Poles in Poland [Lublin Reservation] (at least 569,000 as of 1 February 1941.)

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28 January 1941, 1030. Conference with Fromm, Thomas, Hannecken, Leeb (Ordnance Off.) von Seydel (Air Force) on preparations for Barbarossa.

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31 January 1941, 1030–1300. Conference with army group commanders at home of ObdH [CinC Army].

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5 February 1941, discussion of the Ukraine operation as an operational study, conducted by Gen. von Sodenstern. Very well conceived and discussed.

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Volume VI

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26 February 1941, 1715–1830. Conference with Adm. Schniewind. Subject—Common problems of *Operation Barbarossa*. (Baltic—Coastal protection and Finland. Difficulties in organizing coastal shipping for supply purposes along the Baltic coast. Aaland, Hango, Black Sea. Questions of Russian naval forces and possibility of supply routes along the coast.)

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5 March 1941, *Wagner, Generalquartiermeister*—Draft of an order of the OKW on the organization and administration of the occupied territories in the East. Behind the advancing troops, appointed governments [Kommissarische Regierungen] will be activated to whom military commanders will be attached. The stipulations of the Commander in Chief of the Army are to be observed; otherwise the Army must not be burdened with administrative tasks. Special missions of the Reich Leader SS [Himmler].

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17 March 1941, 1500–2030. Fuehrer Conference (with Col. Heusinger).

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5. *Rear areas*—No difficulties in Northern Russia, which will be taken over by Finland. Baltic states will be taken over together with their administrative machinery. Ruthenians will welcome us with open arms (Frank). Ukraine dubious, Don Cossacks dubious. We must create republics safe from Stalin's influence. The intelligentsia put in by Stalin must be exterminated. The controlling set-up of the Russian Empire must be smashed.

In Russia proper force must be used in its most brutal form. The ideological ties holding together the Russian people are not

yet strong enough and the nation will break up once the functionaries are eliminated. The Caucasus eventually will be ceded to Turkey, but first will be exploited by us.

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19 March 1941, *winter* (Op. Officer, Army Group A)—Review of new missions for Army Group South. Depth of disposition and concentration of tanks in Sixth Army. Hold Seventeenth Army close toward the northern wing! Possibilities of subsequent attack from the Moldavian front; meanwhile deception and sham movements.

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25 March 1941, *Wagner* (Gen. Qu)—*a.* Agenda for conference of Finance Minister with OKH.—Reinforced border control service.

b. Item for discussion for conference with Heydrich on impending eastern questions.

c. Conference Altenstadt—Thomas.

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27 March 1941, beginning 0930—*Conference of commander in chief of army groups, armies, and Panzer groups.*

Army Group Center—No significant new view points. Only Ninth Army and Hoth will need direct orders to get them to attach infantry divisions to the Panzer group at the jump-off.

Army Group North—Plan to strike with one division (SS Division Reich) in the direction of Kovno meets with criticism and is changed by army group. At Kovno we must do the best we can with improvisations and keep the Panzer group together. In this case, too, cooperation of infantry divisions in the attacking sector of the Panzer group is discussed and accepted by army group.

1200. Called to Reich Chancellery in connection with Yugoslav *coup d'etat.*

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1600. After return—Commander in Chief of the Army continues conference with the Commanding General of the Army Group, Army Group South; general agenda. Present—Oberquartiermeister I discussing with operational section the operational possibilities against Yugoslavia and their effects on Barbarossa. Subsequently, discussions with operations officer, transportation officer, generalquartiermeister and Commander in Chief

of the Army on time needed for assembly and grouping of forces for Yugoslavia.

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28 March 1941, *Paulus-Heusinger—Order of Battle, Second Army.*

* * * Temesvar—Reinhardt, XLI Panzer Corps.

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30 March 1941, 1100 hrs. General meeting at Fuehrer's office. Address lasting almost 2½ hours. Situation since 30 June. Mistake of British not to take advantage of chances for peace. Account of subsequent events. Italy's conduct of the war and policies sharply criticized. Advantages for England resulting from Italy's reverses. England puts her hope in the United States and Russia. Detailed review of United States capabilities. Maximum output not before end of four years; problem of shipping. Russia's role and possibilities. Reasons for necessity to clear up the Russian situation. Only the final and drastic solution of all territorial problems will enable us to accomplish our tasks in the air and on the oceans within two years, with the manpower and material resources at our disposal. Our goals in Russia—Crush armed forces, break up state,—

Oberquartiermeister IV—Comments on Russian tanks—respectable; 4.7 cm gun (antitank) a good medium weapon; bulk of antitank guns obsolete.

Numerically, Russian tanks superior to that of any other nation, but they have only a small number of new giant types with long 10 cm guns. (Mammoth models, 42–45 tons.) Air force very large in number, but mostly outmoded; only small number of modern types.

Problems of Russia's vastness—Enormous expanse requires concentration on critical points. Massed planes and tanks must be brought to bear on strategic areas. Our air force cannot cover this entire huge area at one time; at the start of the campaign it will be able to dominate only parts of the enormous front. Hence its operations must be closely coordinated with ground operations. The Russians will cave in under the massive impact of tanks and airplanes.

No illusions about our allies! *Finn*s will fight bravely, but they are numerically weak and have not yet recovered from their recent defeat. *Rumanians* are no good at all. Perhaps they could be used as a security force behind very strong natural obstacles (rivers), in quiet sectors. Antonescu has enlarged his army instead of reducing and improving it. The fortunes of large German

units must not be tied to the uncertain staying power of the Rumanian forces.

Mines!

Questions regarding Pripet Marshes—flank protection, defenses, mines.

Problems arising if Russians should make strategic withdrawal—not likely, since they are based on both Baltic and the Ukraine. If the Russians want to pull out, they must do so at an early stage; otherwise they cannot get away in good order.

With goals in east achieved we shall need no more than 50–60 divisions (armored). One portion of the ground forces will be discharged into armament production for air force and navy, another portion will be required for other missions, e.g., Spain.

Colonial tasks!

Clash of two ideologies. Crushing denunciation of bolshevism, identified with asocial criminality. Communism is an enormous danger for our future. We must forget the concept of comradeship between soldiers. A Communist is no comrade before nor after the battle. This is a war of extermination. If we fail to grasp this, and though we are sure to beat the enemy, we shall again have to fight the Communist foe 30 years from now. We do not wage war to preserve the enemy.

Future political map of Russia—Northern Russia goes to Finland. Protectorates—Baltic States, Ukraine, White Russia.

War against Russia—Extermination of the Bolshevik commissars and of the Communist intelligentsia. The new states must be Socialist, but without intellectual classes of their own. Growth of a new intellectual class must be prevented. A primitive Socialist intelligentsia is all that is needed. We must fight against the poison of disintegration. This is no job for military courts. The individual troop commander must know the issues at stake. They must be leaders in the fight. The troops must fight back with the methods with which they are attacked. Commissars and GPU men are criminals and must be dealt with as such. This need not mean that the troops get out of hand. Rather the commander must give orders which express the common feelings of his troops.

Embody in CinC Army order—

This fighting will be very different from the fighting in the West. In the East, harshness today means leniency in the future. Commanders must make the sacrifice of overcoming their personal scruples.

Noon—All invited to lunch.

Afternoon—Fuehrer conference—*a. Yugoslav question*—Decision in conformity with my ideas. List will attack with L Corps on his Marita front on 5 April. SS [division] “Adolf Hitler” allocated to L Corps. Kleist will attack with three Panzer, two infantry and one Bulgarian division on 8 April.

Group Temesvar on 12 April.

Weichs likewise on 12 April.

Italy, no help as a partner. In Albania they are paralyzed with fear. On the Julian frontier they claim they cannot attack before 22 April. No need to define boundaries against sector of 2d Army, since they will not attack anyhow.

Details—Airborne landing Krusevac.—Assignment of Regt. Goering.—Establishment of Hq.—Send 22d Div. to Hungary.

b. Barbarossa—Reports of army group leaders and of several subordinate commanders (Guderian). Nothing new, except a skillful plea by Rundstedt for assigning the Carpathian sector to the Hungarians and making the Pruth line an offensive front.

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2 April 1941, *Wagner* (Generalquartiermeister)—Transfer of executive power from army commanders to corps commanders in Operation 25. Definition of authority of the Sonderkommandos etc., of the SS and Secret Field Police.

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5 May 1941, *Col. Krebs* returns from Moscow, where he substituted for Koestring. He found the Russians very conciliatory. Russia will do anything to avoid war and will yield on every issue short of territorial concessions. Russian higher officer corps decidedly bad (depressing impression). Compared with 1933, impression is strikingly negative. It will take Russia 20 years to reach her old level. Rearmament is in progress. New fighter planes, new long-range bombers, but pilot performance and ability poor. Long-range bombers apparently concentrated close to the German border. Shipments of construction material for fortifications rolling to the border. However, no evidence of troop concentrations.

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6 May 1941, *General (for special missions) Mueller* with Supreme Judge Advocate.

a. Order to troops along lines of last Fuehrer address to the generals. Troops must do their share in the struggle of ideologies during the Eastern Campaign.

b. Questions of administration of justice in rear areas of army groups.

c. Relaxation of rules concerning channels in approving death sentences against army personnel during operations.

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19 May 1941, 1500-1730—Conference at office of Commander in Chief of the Army, with von Rundstedt/Sodenstern, later Reichenaу/Heim, then also Kleist/Zeitler and finally, von Schobert. Questions relating to deployment of Army Group South. No fundamental difficulties with army group command.

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27 May 1941, *situation conference*—

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OKW insists that date for Barbarossa be kept—no objections on the part of the army—

4 June 1941, *conference* with chiefs of staff of armies and army groups—

Morning—Eastern questions with chiefs of staff in East—Only outstanding items—teamwork of infantry and tanks at jump-off; artillery preparation.

Afternoon—General questions with all chiefs.

* * * * *

6 June 1941, *conference with General Guderian*—

The mission of the armored groups lies not in breaking through at jump-off, but rather in carrying through penetrations in depth afterwards. All strength must be conserved for that task. Hence, at jump-off, maximum advantage must be taken of infantry support. 267th and 293d Divisions must be placed under control of Armored Group 2. They will be committed not as divisions, but rather as regimental units without train under armored troop commanders. An order to this effect will be issued by the OKH at noon.

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9 June 1941, the enormous vastness of the spaces in which our troops are now assembling leaves a deep impression. It automatically puts an end to the doctrine of "Tuchfuehlung" [close contact]. The division as a self-contained operational unit becomes a dominant feature. All our work of decades, to train the divisional commanders for independent leadership, must here come

to fruition. Artillery support for the jump-off will not be spectacularly strong, but must do. Engineer work and signal communications seem to be well prepared.

* * * * *

14 June 1941, *Great Fuehrer Conference.*

Reports by commanders in chief of the army group and of the armies on Barbarossa also of the commanding generals of the Panzer groups.

1100 hrs. Falkenhorst together with Stumpff (air force) report on "Silver Fox", northern group, Barbarossa plus 7, southern group, Barbarossa plus 9 days.

1300-1400. Report of army and Panzer group commanders of Army Group South. On this occasion the Rumanian question is clarified. Till the start of offensive operations Antonescu will formally exercise supreme control in Rumania. 11th Army Command will be attached to him as his "working staff", and will thus be in actual control, but issue orders to the Rumanian troops only through Antonescu.—In this set-up the "Army Mission" will act as liaison staff between the 11th Army Command and Antonescu. *Hungary* will not be taken into confidence, but merely advised that Hungarian defense measures must take into consideration the increase of Russian forces on her border. *Slovakia* will not be notified for the time being. When hostilities start, their army command will have to be requested to get their troops ready to move, in order to be able to repel a Russian advance into Slovak territory. (Commitment desirable on the Russian border south of 17th Army).

After lunch, comprehensive political speech by the Fuehrer, in which he gives the reasons for his intention to attack Russia, and develops his calculation that Russia's disintegration will induce Britain to give up the struggle.

1630-1830. Report on preparation in the Baltic (Adm. Schmundt), afterwards Army Group North and Center. Lengthy debate on the danger to which our headquarters may be exposed from the Bialystok pocket. Minefields! It has been settled to advance zero hour from 0330 hrs. to 0300 hrs.

* * * * *

22 June 1941, morning reports show that all armies (except 11th) have started off according to plan. *Tactical surprise appears to have been achieved along the entire line.* The bridges across the Bug and the other rivers of the wet frontier were undefended and are intact in our hands. That the enemy was taken by sur-

prise is evidenced by the fact that events caught the troops in their quarters, that planes stood on the airfields covered up, and that forward elements when seeing themselves unexpectedly attacked, called up the rear for instructions what to do. Other effects of the surprise will result from the general forward rush of the mobile troops. The navy also reports surprise of the enemy in their sector. He reacted only passively to our actions in the last few days, and now is massed in ports, apparently in fear of mines.

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PARTIAL TRANSLATION OF DOCUMENT NOKW-1531
PROSECUTION EXHIBIT 587

LETTER FROM DEFENDANT VON KUECHLER, TO GENERALS
UNDER HIS COMMAND, 22 JULY 1940, CONCERNING
RUSSO-GERMAN RELATIONS

Commander of Rear Area 550
G. J. No. 734/40 Secret

Staff Quarters, 20 August 1940

Secret
C o p y

The Commander in Chief
of the 18th Army

Army H.Qu., 22 July 1940

(I c No. 2489/40 Secret)

1. Pursuant to the decree of the Commander in Chief of the Army concerning German-Russian relations, which has been transmitted as 18th Army Command Sect. Ic No. 2477/40 Secret, dated 22 July 1940, I hereby direct the commanding generals to counteract energetically—by appropriate instructions to be given to both the officer corps and the men—all rumors concerning German-Russian relations.

The following reasons for the transfer of the 18th Army and its subordinate units to the east from the west will be announced to the troops: protection of the newly-acquired living space in the east, demonstration of our military strength to the Poles, preparation of the establishment of peacetime garrisons in the eastern territory for units of the army.

2. I am also stressing the necessity of ensuring that every soldier of the army, particularly every officer, refrain from criticizing the ethnic struggle being carried out in the Government General, for instance, the treatment of the Polish minorities, of the Jews, and of church matters. The final ethnic solution

of the ethnic struggle which has been raging on the eastern border for centuries calls for unique harsh measures.

Certain units and departments of the Party and the state have been charged with the carrying out of this ethnic struggle in the east.

The soldiers, therefore, must keep aloof from these concerns of other units and departments. This implies that they must not interfere with those concerned by criticism either.

It is particularly urgent to initiate immediately the instruction concerning these problems of those soldiers who have been recently transferred from the West to the East; otherwise they might become acquainted with rumors and false information concerning the meaning and the purpose of that struggle.

Signed: VON KUECHLER

Certified true copy:

Signed signature

Captain, GSC

* * * * *

TRANSLATION OF DOCUMENT 3032-PS
PROSECUTION EXHIBIT 1251

AFFIDAVIT OF DEFENDANT WALTER WARLIMONT,
21 NOVEMBER 1945, CONCERNING HITLER'S PLANS
FOR ATTACKING THE U.S.S.R.

Nuernberg, Germany, 21 November 1945

I, Walter Warlimont, being first duly sworn, depose, and state—

On 29 July 1940, I, as head of the Defense Department of the OKW Operations Staff, together with a number of other officers of the Defense Department, attended a conference at Bad Reichenhall called by General Jodl. At this conference Jodl announced that Hitler intended to attack the U.S.S.R., in the spring of 1941. Sometime previous to this meeting, Hitler had told Keitel that he wanted to launch the attack against the U.S.S.R., during the fall of 1940. Keitel argued that it would be impossible to launch such a campaign that fall because of the purely military difficulties presented by the transportation of troops from west to east, and by the deployment of such forces in the East, especially considering that the necessary physical preparations for the deployment of the masses of troops to be gathered for the attack had not as yet been ordered. In addition, Keitel argued that only a few weeks of operational weather could be expected due to the fall weather conditions in Russia; that the army could establish a number of additional divisions by the spring of 1941; that the

problem of motorized equipment, very necessary in an area such as Russia where communication facilities, such as railroads and roads, were limited, would be under control by spring of 1941; that the technical development of armored vehicles and tanks, as well as an increase in their numbers, could be expected by the spring of 1941. Keitel's arguments prevailed, and by the time of the 29 July conference, mentioned above, the date for the intended attack had been moved up to the spring of 1941.

[Signed] WALTER WARLIMONT

PARTIAL TRANSLATION OF DOCUMENT NOKW-065
PROSECUTION EXHIBIT 36

EXTRACTS FROM AFFIDAVIT OF GENERAL JODL, 26 SEPTEMBER 1946

I, General Alfred Jodl, swear, depose, and state—

* * * * *

Warlimont participated to the same extent in the preparation of the plan "Barbarossa", as in all other operational plans. At any rate, I informed him for the first time on 29 July, of Hitler's anxiety about the possibility of a further Russian advance in Rumania. The strong deployment in Bessarabia threatened the oil wells. And from then on he had to take care of this task with the staff, namely, to examine at that time—at the end of July and the beginning of August—whether a deployment of troops could still be effected during the summer. It was not possible, as the deployment would have taken 4 months and would, therefore, have lasted well into the winter. We believed, however, that we were not able to conduct any operations in the East in wintertime.

Then the whole idea of a war with Russia was discarded, disappeared altogether, except for one order which was worked out by Warlimont with the staff, namely, to improve the deployment conditions in the East, so that the deployment could be executed in the shortest possible time; that is to improve ramp installations, to stock supplies, etc. Such an order was issued in August. Then I gave him in November, according to Hitler's order, the directive to transmit for the first time to the three branches of the armed forces an order which they should think about, concerning the participation in an operation against Russia. This had nothing to do with the political discussions with Molotov, which were intended for the beginning of November. And when these discussions with Molotov, according to the information we received, were without result, Warlimont was ordered in the first days of December to issue the order to submit a final plan for

operations against Russia. This was only the general directive which was then worked out in my staff under the direction of Warlimont, submitted to me, signed by the Fuehrer, and issued to the three branches of the armed forces. The army was then to prepare its own operations plan. In reality, it had already prepared it in advance, according to statements by von Brauchitsch, because Hitler had previously given him a verbal order to that effect.

As to Warlimont's special tasks, I sent him for instance to the French, with whom he worked rather closely, and with whom he discussed combined operations in Africa. I sent him there because he was a very good linguist and because he liked such tasks. He received frequent orders from Field Marshal Keitel, and he attended conferences in Berlin, where questions of an economic nature were discussed. There he often represented Field Marshal Keitel in matters about which I know nothing.

* * * * *

I have read the above affidavit, consisting of ten pages in the German language, and I declare that it is the whole truth according to the best of my knowledge and belief. I have been given the opportunity to make alterations and corrections in the above affidavit. I have given this testimony voluntarily without promise of reward and was subjected neither to pressure nor threats.

26 September 1946

[Signed] A. JODL

PARTIAL TRANSLATION OF DOCUMENT NOKW-1744
PROSECUTION EXHIBIT 1197

ORDER FROM COMMANDER IN CHIEF OF THE ARMY,
6 SEPTEMBER 1940, CONCERNING TRANSFER
OF UNITS TO THE EAST

[Stamp]

Army General Staff
Group Home Fortifications, Ia
Received: 7 Sept 1940
No. 094/40 Secret N. Enclosure

[Handwritten]
Group Home
Fortifications
[Illegible initial]

Headquarters, High Command of the Army, 6 September 1940
High Command of the Army
Army General Staff Operations Section (Ia)

[stamp]

Matter for Chiefs

Through officer only!

The partial evacuation of the closely massed forces in France, Belgium, and western Germany makes it necessary to transfer units to the East at an early date. At the same time the infantry divisions intended for reorganization are being transferred to their home garrisons.

* * * * *

[Signed] VON BRAUCHITSCH

Distribution:

Army Group A—1st copy

Army Group B—2d copy

Army Group C—3d copy

18th Army—4th copy

* * * * *

TRANSLATION OF DOCUMENT 446-PS
PROSECUTION EXHIBIT 1200

DIRECTIVE NO. 21 FOR CASE BARBAROSSA, 18 DECEMBER 1940,
SIGNED BY HITLER, INITIALED BY KEITEL, JODL, AND WARLIMONT

The Fuehrer and Supreme Commander of the German Armed
Forces

OKW/Armed Forces Operations Staff/Dept. National Defense (I)

No. 33 408/40 Top Secret

Matter for Chiefs

9 copies—4th copy

Top Secret

Through officer only

Directive No. 21 Case Barbarossa

Fuehrer Headquarters, 18 December 1940

The German Armed Forces must be prepared to *crush Soviet Russia in a quick campaign* before the end of the war against England. (Case Barbarossa.)

For this purpose the *army* will have to employ all available units with the reservation that the occupied territories will have to be safeguarded against surprise attacks.

For the Eastern Campaign, the *air force* will have to free such strong forces for the support of the army that a quick completion

of the ground operations may be expected and that damage of the eastern German territories will be avoided as much as possible. This concentration of the main effort in the east is limited by the following reservation: That the entire battle and armament area dominated by us must remain sufficiently protected against enemy air attacks, and that the attacks on England and especially the supply for them must not be permitted to break down.

Concentration of the main effort of the *navy* remains unequivocally against England also during an Eastern Campaign.

If the occasion arises I will order the deployment against Soviet Russia 8 weeks before the intended beginning of the operations.

Preparations requiring more time to start are—if this has not yet been done—to begin at once and are to be completed by 15 May 1941.

Great caution has to be exercised so that the intention of an attack will not be recognized.

The preparations of the High Commands are to be made on the following basis:

I. *General purpose*—The mass of the Russian *Army* in western Russia is to be destroyed in daring operations by driving forward deep wedges with tanks and the retreat of intact battle-ready troops into the wide spaces of Russia is to be prevented.

In quick pursuit a line is to be reached from where the Russian Air Force will no longer be able to attack German Reich territory. The final goal of operations is the protection against Asiatic Russia from the general line Volga-Arkhangelsk. In case of necessity, the last industrial area in the Urals left to Russia could be eliminated by the air force.

In the course of these operations, the Russian Baltic Sea Fleet will quickly lose its bases and will no longer be capable of fighting.

Effective intervention by the Russian *Air Force* is to be prevented through forceful blows at the beginning of the operations.

II. *Probable allies and their tasks.*

* * * * *

2. It will be the task of Rumania, together with the forces concentrating there, to pin down the opponent on the other side and, in addition, to render auxiliary services in the rear area.

* * * * *

IV. It must be clearly understood that all orders to be given by the commanders in chief on the basis of this directive are

precautionary measures in case Russia should change her present attitude towards us. The number of officers to be drafted for the preparations at an early time is to be kept as small as possible. Further co-workers are to be detailed as late as possible and only as far as each individual is needed for a specific task. Otherwise, the danger exists that our preparations (the time of their execution has not been fixed) will become known and thereby grave political and military disadvantages would result.

V. I am expecting the oral reports of the commanders in chief on their further plans based on this directive. The preparation planned by all branches of the armed forces are to be reported to me through the High Command, also in regard to their time.

[Signed] ADOLF HITLER

[Initials] J [Jodl]

K [Keitel]

W [Warlimont]

16 December

Distribution:

Commander in Chief of the Army
(Operations Section)—1st copy
Commander in Chief of the Navy
(Naval War Staff)—2d copy
Commander in Chief of the Air Force
(Air Force Operations Staff)—3d copy

OKW:

Armed Forces Operations Staff—4th copy
Department National Defense—5th–9th copies

PARTIAL TRANSLATION OF DOCUMENT NOKW-2705
PROSECUTION EXHIBIT 1202

DRAFT OF DEPLOYMENT DIRECTIVE "BARBAROSSA," 22 JANUARY
1941, ISSUED BY THE HIGH COMMAND OF THE ARMY

[Stamp] Top Secret

High Command of the Army
Army General Staff, Operations Section (I)
No. 050/41 Top Secret

Headquarters, High Command of the Army
22 January 1941
15 copies—12th copy

[Stamp]
Matter for Chiefs
Through officer only

Draft

Deployment Directive "Barbarossa"

1. *Mission*—In case Russia should change her present attitude towards Germany, as a precaution, all preparations which make it possible to defeat Russia in a swift campaign are to be made, even before the war against England is concluded.

Operations are to be conducted in such a manner that the main body of the Russian Army stationed in western Russia will be annihilated by driving Panzer wedges far into it, and by preventing the withdrawal of components, able to fight, into the vast Russian territory.

* * * * *

3. *Intention*—The first aim of the High Command of the Army, within the scope of the assigned mission, is to tear open the front of the mass of the Russian Army expected in western Russia by a swift and deep advance with strong mobile units north and south of the Pripet marshes, and by exploiting this break-through, to annihilate the enemy groups separated from each other.

South of the Pripet marshes—Army Group South, Field Marshal von Rundstedt—, the break-through of strong Panzer forces from the Lublin area towards Kiev is to be exploited to annihilate the Russian forces in the Ukraine still west of the Dnepr, simultaneously with an attack from Rumanian territory across the Pruth to seize the points for crossing the Dnepr and thereby to guarantee freedom of movement for a subsequent combined effort between Army Group South and the German forces operating in northern Russia, or for new tasks in southern Russia.

North of the Pripet marshes, the break-through to be forced by Army Group Center—Field Marshal von Bock—by committing strong mobile forces from the Warsaw and Suwalki areas in the direction of Smolensk, will have to be exploited for turning strong mobile troops north. This has to be done in order to annihilate the enemy forces fighting in the Baltic countries, in a joint operation with Army Group North—Field Marshal von Leeb—attacking from East Prussia in the general direction of Leningrad; subsequently in conjunction with the Finnish Army and, if the occasion arises, with German forces brought up from Norway to eliminate finally the last possibilities for the enemy to resist in northern Russia. Thereby freedom of movement will be guaran-

teed for further tasks, if the occasion arises, in cooperation with the German forces operating in southern Russia.

In case enemy resistance suddenly collapses completely in northern Russia, an immediate advance on Moscow, while refraining from fanning out, may be considered.

The beginning of the attack will be ordered uniformly for the entire front from the Black Sea to the Baltic (B-day, Y-hour).

* * * * *

In the area north of Grodno, Panzer Group 3 will break through the enemy forces near the frontier with the cooperation of the 9th Army, and by swiftly advancing into the area north of Minsk will create, in conjunction with Panzer Group 2 advancing from the southwest on Minsk, the prerequisite for annihilating the enemy forces in the area between Bialystok and Minsk. Its further mission will be to speedily reach the area near and north of Vitebsk in close contact with Panzer Group 2, to prevent enemy forces from concentrating in the area of the upper Dvina and thereby to ensure freedom of movement to the army group for further tasks.

* * * * *

The 18th Army will break through the enemy forces facing it, with its point of concentration at and east of the road Tilsit—Riga, will cut off enemy forces southwest of Riga by quickly pushing ahead with the bulk of its forces across the Dvina at and below Stockmannshof, and will annihilate them. Furthermore, by quickly advancing toward the line Ostrov—Pskov, it will be its mission to prevent Russian forces from escaping south of Lake Peipus, and to mop up Estonia from the enemy according to the direction of Army Group North—if the occasion arises, in a joint operation with mobile forces north of Lake Peipus.

It is important to occupy early the most important Russian ports at the Baltic.

* * * * *

Maintaining the main point of its commitment against England, the navy is given the task to prevent enemy naval forces from breaking out of the Baltic while protecting our own coast. Hereby major naval operations are to be avoided until Leningrad, the last base of the Russian Baltic Fleet is taken. After the Russian Fleet is eliminated, the navy has the mission to safeguard full sea traffic in the Baltic,—also the supply of the northern flank of the army.

9. *Participation of other countries*—The active participation of Rumania and Finland on the flanks of the operation is to be expected in the war against Soviet Russia. The nature of participation and the subordination of the armed forces of both countries to the German High Command will be left until a timely arrangement is made.

It will be the task of Rumania to support the attack of the German southern flank with selected forces and to tie down the enemy where German forces are not committed. It is planned to employ Rumanian forces for occupation and auxiliary duties in the rear area.

It will be the task of Finland to cover the deployment of German forces in northern Finland, simultaneously eliminating Hangoe, as well as, at the latest when Army Group North crosses the Dvina, to attack the Russian forces on both sides of Lake Ladoga, if possible with her main effort east of it, and to support Army Group North in annihilating them.

An active participation of Sweden is probably not to be expected. However, it is not out of the question that Sweden may permit her railways to be used for the deployment of German forces in northern Finland and for their supply.

* * * * *

11. *Maintenance of Secrecy*—In order to ensure on account of its political effects abroad, the necessary absolute secrecy in the planning of a deployment in the East (to be executed as a precautionary measure), the number of officers to be assigned to the early preliminary work is to be kept as small as possible, additional assistants are to be informed as late as possible and only to the extent necessary for the activity of each individual. The circle of persons to be informed fully is to be restricted as long as possible to the commanders in chief, commanding generals, their chiefs of staff, and first general staff officers.

Commitment of additional commanders and their assistants within the scope of their mission, has to take place as late as the preliminary work possibly permits.

Passing on the text of the deployment directive may be done only in extract form. Other countries will not be contacted. An order for this will be given in time.

* * * * *

Distribution :

Army Group South—1st copy
Army Group Center—2d copy
Army Group North—3d copy

Army Command Norway—4th copy
OKW—5th copy
CinC Air Force—6th copy
High Command of the Navy—7th copy
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Replacement Army—8th copy
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Distribution for the draft:

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PARTIAL TRANSLATION OF DOCUMENT NOKW-1653
PROSECUTION EXHIBIT 1214

EXTRACTS FROM ACTIVITY REPORT AND WAR DIARY,
1 FEBRUARY–19 JUNE 1941, OF "SECTOR STAFF EAST
PRUSSIA" (LATER REDESIGNATED "ARMY GROUP
NORTH") COMMANDED BY DEFENDANT VON LEEB

Army Group Command C
Ia No. 31/41 Top Secret
Matter for Chiefs

Headquarters, 18 February 1941
2 copies—2d copy

[Stamp]
Matter for Chiefs
Through officer only

The purpose of this activity report is to set down all the problems in connection with "Barbarossa" without—for reasons of camouflage—entering them in the general current activity report. This activity report will be kept until the reactivation of the War Diary.

The report is always to be kept under lock and key in the Ia safe. It will be kept in handwriting by an officer.

* * * * *

FOR THE ARMY GROUP COMMAND

The Chief of the General Staff

[Signed] BRENNECKE

Activity Report

1 February 1941, No. 050/41 Top Secret dated 31 January 1941, concerning "Barbarossa" was received by High Command of the Army, Army General Staff, Operations Section (I N).

3 February 1941, 16th Army was instructed by High Command of the Army to assist in the elaboration of "Barbarossa".

4 February 1941, CinC Panzer Group 3, General Hoth had discussion with CinC and chief.

5 February 1941, Report of CinC to CinC Army in Zeppelin relative to *intended assignment of Panzer Group 4*. CinC Army agrees, see marginal note Ia in High Command of the army order. Moreover, request CinC for additional assignment of bridging detachments.

8 February 1941, *Panzer Group 4* was instructed by High Command of the Army to assist in the elaboration of "Barbarossa".

Order of army group relative to "Barbarossa" is passed to 16th and 18th Army and Panzer Group 4 (Army Group C Ia No. 8/41 Top Secret, Matter for Chiefs, dated 6 February 41.)

Discussion of chief and Ia relative to "Barbarossa" with—
16th Army Ia Col., GSC, Boeckh-Berends [Boeckh-Behrens]
18th Army O1 Capt. Bielitz (In place of Ia—sick)
Panzer Group 4 Ia Major GSC, [von] Schoen-Angerer
Chief Transportation Officer 18th Army Major, GSC, Stange
Id and O1 Army Group C

* * * * *

15 February 1941, CinC Panzer Group 4, General Hoepner, reports to CinC and is informed of missions for "Barbarossa". Oberquartiermeister 3 of 18th Army contacts Ic Army Group C. He reports on information about the enemy gained so far.

(Report to chief)

* * * * *

19 March 1941, Ia personally in Zeppelin at Operations Section and Chief of General Staff.

Ia ordered to Chief of Army General Staff in order to receive instructions for the report of the CinC on 25 March, at CinC Army. Chief of Army General Staff informs that CinC Army still leaves subordination of infantry division to Panzer group up to deliberation. Personally he considers the subordination of only one infantry division insufficient, above all however, it is also very late to assign it only behind the fighting elements of the Panzer group. In order not to weaken the Panzer group from the very beginning in its fighting advance through the border area, CinC Army considers it expedient to assemble the subordinated infantry directly at the border so that it may advance along by-ways simultaneously with the Panzer group.

* * * * *

22 March 1941, upon order High Command of the Army field fortifications are to be carried out at the border by Army Group B as a defensive measure in order to *camouflage the deployment*. Request to Army Group B concerning consideration of points of concentration within the sphere of Army Group C.

* * * * *

30 March 1941, CinC for report to the Fuehrer. Fuehrer agrees with operational intentions.

* * * * *

16 April 1941, *under the direction of Chief* of the General Staff, a conference takes place relative to the set operational planning task 2 and the *Barbarossa* problems in connection with it. Participants are *Staff* [of] *Army Group*—Chief [C/S], Ia, Ia op, Id, Oberquartiermeister 1, Ic, General of Engineers, Army Group Chief Signal Officer, Ib.

* * * * *

This activity report is concluded as of 21 April 1941. From this day on, a War Diary will be kept by the Sector Staff. The activity

report will later be attached to the War Diary as enclosure.

For the Sector Staff East Prussia

The Chief of the General Staff

[Signed] BRENNECKE

22 April 1941

[WAR DIARY]

* * * * *

Day Hour Locality and Kind of Quarters	Description of the Events (Important in this connection are:—Judgment of the situation [enemy and own], times of receipt and dispatch of reports and orders)
--	--

22 April 1941 0000 Elbing	<i>Assumption of command</i> by Sector Staff East Prussia over— Subsector East Prussia I, 18th Army Command, Panzer Group 4, Commander Army Group Rear Area 101.
---------------------------------	--

For reasons of camouflage the *commander in chief* remains outside of East Prussia, at first in Munich, later in Bad Polzin. He is deputized for by commander in chief, 18th Army, in current matters by chief of general staff.

* * * * *

Headquarters—

Sub Sector Staff East	
Prussia I	Bartenstein
18th Army	Koenigsberg
Panzer Group 4	Allenstein
Commander Army Group	
Rear Area 101	Stargard
Staff Toppe	Insterburg

* * * * *

22 April 1941 Elbing 0930	Conference of officers with Chief of General Staff takes place. Welcome at the Command Post of the Sector Staff, announcement of mission, defense of the German border, renewed reference to maintenance of secrecy.
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* * * * *

26 April 1941
Elbing Operations Section inquires by telephone whether Sector Staff East Prussia agrees that LVI Corps, instead of being brought up on 5 May, as hitherto intended, joins Pz. Group 4 in cross-country march on 25 May only.

Reason—Corps Headquarters is in a position profitably to advance the training of the divisions subordinate at the present time in the home theatre of operations. Sector Staff agrees under condition that—

1. *Nothing is changed in the proposed time-schedule for "Barbarossa".*
2. *The labor Staff now assigned to Pz. Group 4 be reinforced at any time upon request of the Pz. Group.*

* * * * * * *

30 April 1941
Elbing *Commander in Chief arrives in Bad-Polzin (see entry of 22 April 1941).*

* * * * * * *

1 May 1941
Elbing *Chief of General Staff, Ia and Ic with commander in chief in Bad-Polzin for the purpose of reporting on operational intentions.*

* * * * * * *

10 May 1941
Elbing *Order concerning camouflage of the areas and roads at the border which can be surveyed by the Russians is issued to the subordinate command authorities.*

* * * * * * *

15 May 1941
1250
Elbing *Commander in Chief of Army arrives. He is being informed of the present situation and intentions. Opinions of High Command of the Army and Sector Staff coincide. For details see file note.*

* * * * * * *

31 May 1941
Elbing *Armies, Panzer Group 4 and Staff Toppe receive copy of an order of the Operations Section concerning preparations of various kinds for "Barbarossa".*

Point of view of Sector Staff for regulating the chain of command for Operation "Beowulf".

1 June 1941
Elbing

Receipt and dispatch of situation reports of Sub-Sector East Prussia I and of the Commander of Army Group Rear Area 101. Security against Russian preventive measures—giving permission to open fire against Russian fliers.

The Fuehrer again emphatically points out that during sea transport and air transport over sea, life jackets are to be used as far as available.

Assignment of liaison officers to individual higher command authorities by the High Command of the Army for case "Barbarossa".

9 June 1941
Elbing

High Command of the Army informs about the *PW organization of the OKW* and of the German Army Mission to Rumania.

* * * * *

Sector Staff reports to High Command of the Army that, in agreement with Army Group B, * * * time was fixed.

Preparative deliberations in the staff of the Sector Staff regarding the possibilities of capturing * * * Sector Staff reserves for itself the right to decide whether operation "Beowulf I" or "Beowulf II" will be carried out. Examination of both operations.

19 June 1941

By proclamation of the air raid protection service, several measures were initiated in the District Danzig-West Prussia, such as the closing of schools, reinforcement of public and domestic air raid shelters, etc. As a result, there is increased spreading of rumors and *considerable alarm of the already excited population* which talks of imminent danger of war. Sector Staff considers it expedient in future cases to carry out measures by degrees. (Report to High Command of the Army, Army General Staff of 19 June, section 1c.)

The headquarters of Panzer Group 4 and the corps headquarters subordinated to the Panzer group have reached their final quarters. Liaison Command of the High Command of the Army arrives (Lt. Col. Langhaeuser (Gen. Staff), Capt. Hass, Lt. Kersten).

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2452
PROSECUTION EXHIBIT 1206

DEPLOYMENT DIRECTIVE "BARBAROSSA", 5 FEBRUARY 1941, SENT
BY DEFENDANT VON LEEB TO DEFENDANT VON KUECHLER

Army Group C
Ia 8/41 Top Secret
Matter for Chiefs
Through officer only

9 copies—5th copy

Top Secret

*To be filed separately from part II
Written by an officer.*

[Stamp]

18th Army Command
20 February 1941

Headquarters 5 February 1941

Deployment Directive "Barbarossa"

Part I (Introductory note)

In case Russia should change her present attitude towards Germany, as a precaution, all preparations which make it possible to defeat Soviet Russia in a swift campaign are to be made.

2. *Secrecy.*—Because of the political effect it might have abroad, absolute secrecy on all questions pertaining to the deployment in the East, is vitally essential.

The following orders are given to this effect:

a. The number of officers to be assigned to the early preparatory work is to be kept as small as possible. The size of this officers' staff depends on the CinC's, the Commanding Generals and Divisional Commanders. An expansion of the staff of assistants is to take place as late as possible, and their orientation only to the extent which is necessary for the activity of each individual.

b. The circle of persons to be informed fully is to be restricted as long as possible to the commanders in chief, commanding generals, their chiefs of staff, Oberquartiermeister and first general staff officers.

Commitment of additional commanders and their assistants within the scope of their mission has to take place as late as the preliminary work possibly permits.

c. Passing on the text of the deployment directive may be done only in extract form. It is to be confined to information which is

essential for the preparation and command of the participating office and also at the given time.

d. Contact with agencies of the operational air force and the navy in questions concerning the deployment directive is subject to approval by the armies. Moreover, discussions to that effect, etc., must be limited to the absolutely essential subjects.

e. Any means serving to secure the secrecy is to be taken into account and applied. Both consciousness of responsibility and self-discipline are essential.

f. The provisions concerning the safeguarding regulation and those dealing with "Matter for Chiefs" require especially strict compliance in this preparation.

g. Special secrecy and camouflage is required during reconnaissance trips and travel in the border districts.

h. The preliminary work is conducted under the code word "Barbarossa". Within the army group the word "Study" is to be added.

3. Course of the preliminary work.—For reasons of secrecy and because of the present channel of command and widely scattered location of the staffs and units earmarked for Barbarossa, the preliminary work is to take place in specific sectors one after the other.

a. First section (until the middle of February)—Preparation of the orders and directives of the army group. The armies and Panzer groups assigned to the operation Barbarossa, will be instructed by the High Command of the Army to carry out the necessary preliminary work in accordance with the orders of the army group.

b. Second section (middle of February until middle of March)—Preparation of the necessary orders by the armies and Panzer groups. Commitment of the corps headquarters assigned in accordance with the deployment directive—as far as necessary also divisions—to the further preliminary work. Notice is given to these units by the High Command of the Army in due time.

The High Command of the Army is planning *at this time* for the completion of further preparations to transfer to the East the working staffs of the army groups, armies and Panzer groups which are not yet stationed there. These staffs will be located with Army Group B or the army commands for reasons of secrecy.

c. Third section (April until the beginning of May)—The assumption of command by the army groups and armies will be carried out for the time being in a disguised manner.

d. Completion of all preliminary work so that the start of the

attack is possible from 16 May onward. Notice is to be given of this time schedule as late as possible and only down to the corps headquarters.

4. For the conduct of warfare within the compass of these operations, the well-proved principles in the Polish campaign will have to be applied. In this connection, however, it must be considered that, in spite of a clear concentration of forces at the vital points, the forces of the enemy must also be attacked on the remaining sectors of the front. This will be the only way to prevent the enemy from making an early withdrawal with strong combat forces and evading his annihilation by retiring to the west bank of the Dvina River.

Moreover, operations of the Russian Air Force against the army will have to be counted on to have a greater effect than up till now, all the more so because the German Air Force will not be available in full strength for the operation against Russia.

The troops must also be prepared against the use of chemical warfare agents by the enemy, which may also be released from the air.

The mopping-up of the rear areas, especially in the attacking sectors of mobile troops, requires a planned arrangement to be carried out by these and other units following them.

* * * * *

5. *Reports and submissions.*—By the Army Command and Panzer Group to be submitted by 13 February 1941.

a. Map 1: 300,000 with the planned areas of assembly for attack and engagement down to the corps (inclusive) and divisions etc., which may have been designated by the army directly.

b. Intended arrangement of forces, including temporary distribution of the German Army troops.

c. Requests for support by the air force.

d. Considerations with regard to a time schedule for bringing up the forces from their present quartering areas or the planned unloading areas, to the areas of assembly to be ready for the attack. Special requests concerning execution of the transports in the army area.

e. *General requests and applications.*—They are to be submitted by Ia's. They will be received until 13 February in the evening.

On 14 February a coordinating elaboration of the directives under *d* will be prepared by Ia's in cooperation with the Ia of the army group. For this purpose the Chief Transportation Officer of

the 18th Army will arrive with the necessary material at Army Group Headquarters (Palasthotel Weber) on the evening of 2 February.

Return expected to be on 15 February 1941.

The Commander in Chief

[Signed] LEEB

Distribution:

18th Army—1 [Copy] (5th copy)

PARTIAL TRANSLATION OF DOCUMENT NOKW-2670
PROSECUTION EXHIBIT 1209

COMBAT DIRECTIVE, 15 FEBRUARY 1941, FOR OPERATION
"BARBAROSSA" FROM ARMY GROUP A TO ARMY GROUP B
(CHIEF OF STAFF DEFENDANT VON SALMUTH), AND CIR-
CULAR LETTER FROM GENERAL HALDER, 21 MARCH 1941,
CONCERNING CONFERENCE ON "BARBAROSSA"

Army Group A (South)
Ia No. 157/41 Top Secret

[Stamp]
Matter for Chiefs
Through officer only
Top Secret, draft

[Stamp]
For War Diary
Enclosure No. 7

Reference: High Command of the Army—General Staff of the
Army—Operations Section
(IN) No. 050/41 Top Secret

Subject: Barbarossa

Headquarters, 15 February 1941

To Army Group Command B

1. On the northern flank of Army Group South, the 6th Army (headquarters from the middle of April onward in Sandomierz, from the beginning of the operations on in Zamosc) will break through the enemy frontier positions east of Tomaszow Lubelski-Chelm, and will destroy the group of the enemy to be expected around Krzemieniec-Rowne-Luck in cooperation with Panzer Group 1 which, for the time being, will be subordinated to it. In the course of further operations, Panzer Group 1 will break through to Kiev, via Berdichev-Zhitomir, the 6th Army will advance on Kiev via Zhitomir with a strong right wing, making

use of the breakthrough of the tanks. The 6th Army is also charged with the task of protecting the northern flank of the army group against action from the direction of the Pripet marshes.

2. *The air reconnaissance* of Army Group South will cover, in the north, the territory up to the line Brzesc-Dawidgrodek-Gomel.

3. The 17th Army (headquarters at this time in Zakopane, later in Rzeszow-Reichshof) will first continue to work out the whole of the *territorial preparations* in the deployment area of Army Group South (excluding Rumania).

4. Army Group South (headquarters first in Breslau, Operations Section in Tarnew) and 6th Army (headquarters in Sandomierz) will take over *command in the deployment area* in a camouflaged form (assuming that High Command of the Army agrees).

FOR THE ARMY GROUP COMMAND

The Chief of Staff

[Signed] VON SODENSTERN

Army Group B—1st copy
Army Group A—2d copy

[Stamp] Army Group A Ia No. 430/41 Top Secret, Matter for Chiefs

[Stamp] Top Secret

[Stamp]
Matter for Chiefs
Through officer only

[Stamp]
For War Diary
Enclosure No. 70

[Handwritten] 23 March 1941, 1230 hrs.

High Command of the Army
General Staff of the Army, Operations Section (Ia)
No. 479/41 Top Secret, Matter for Chiefs
Headquarters, High Command of the Army, 21 March 1941
22 copies—1st copy

Reference: High Command of the Army General Staff of the Army, Operations Section (Ia) No. 447/41 Top Secret, Matter for Chiefs of 18 March 1941.

Subject: Conference at the High Command of the Army.

1. *On 27 March* (not, as ordered in the order quoted above, on 24 and 25 March), conferences will take place at the High Command of the Army, when the CinC of the Army is going to ask the commanders in chief of army groups, armies and Panzer groups to report *their intentions concerning the deployment for and the execution of Barbarossa*. The necessary records are to be taken to the conference.

2. *Place of the conference*: Zeppelin, Maybach I, House A 5.

3. *Timetable*:

0930–1130 hrs.—*Army Group B*.

Participants

CinC Army Group B and Chief [of Staff] or Ia,
CinC 4th Army Band Chief or Ia,
CinC 9th Army Band Chief or Ia,
Commander Panzer Group 2 and Chief or Ia,
Commander Panzer Group 3 and Chief or Ia.

1130–1330 hrs.—*Army Group C*.

Participants

CinC Army Group C and Chief or Ia,
CinC 16th Army C and Chief or Ia,
CinC 18th Army C and Chief or Ia,
Commander Panzer Group 4 and Chief or Ia.

1330–1400 hrs.—Joint conference with *the Army Groups A, B, and C*.

Afterwards the gentlemen will be the guests of the CinC of the Army for lunch.

From 1530 hrs., onwards—*Army Group A*.

Participants

CinC Army Group A and Chief or Ia,
CinC 6th Army and Chief or Ia,
CinC 11th Army and Chief or Ia,
CinC 17th Army and Chief or Ia,
Lt. Colonel (GSC) Speth,
Major (GSC) von Petzold.

4. There will be a luncheon with the Japanese Foreign Minister on *28 March*, the *commanders in chief of army groups* will probably attend. More detailed instructions will be issued by the Adjutant's Office of the Fuehrer. The morning will be available for conferences.

5. On 29 March, the commanders in chief of army groups and the commanders of Panzer groups will attend the Fuehrer and report orally on Barbarossa.

6. Wishes regarding billets and transportation will be communicated to *Operations Section*.

BY ORDER :

[Signed] HALDER

Distribution :

Army Group A, 1st copy
Army Group B, 2d copy
Army Group C, 3d copy
Army Group D, 4th copy
4th Army, 5th copy
6th Army, 6th copy
9th Army, 7th copy
11th Army, 8th copy
16th Army, 9th copy
17th Army, 10th copy
18th Army, 11th copy
Panzer Group 2, 12th copy
Panzer Group 3, 13th copy
Panzer Group 4, 14th copy
German Mission to Rumania, 15th copy
Adjutant to CinC Army, 16th copy
Adjutant to Chief of General Staff, 17th copy
Oberquartiermeister I, 18th copy
GZ, 19th copy
Operations Section, Chief, 20th copy
Operations Section, Ia, 21st copy
Operations Section, I, 22d copy

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2704
PROSECUTION EXHIBIT 1211

DEPLOYMENT DIRECTIVE "BARBAROSSA", 12 MARCH 1941, SIGNED
BY DEFENDANT HOTH AND TRANSMITTED TO SUBORDINATE UNITS

Panzer Group 3
Section Ia No. 25/41

Top Secret Matter for Chiefs

[Stamp] Top Secret

15 copies—14th copy

Deployment Directive "Barbarossa"
(Names of Localities according to map 1:300,000)

General Staff Headquarters, 12 March 1941

1. *Over-all objective*—In case Russia should change her present attitude towards Germany, as a precaution, all preparations are to be made which make it possible to get a start on Soviet Russia and to crush her armed forces in a swift campaign before they are able to withdraw into the vast Russian territory.

The principles which proved their value in the Polish campaign will hold for the conduct of warfare. It is expected that the enemy's air force will have a greater effect against the army than up till now, since the German Air Force will not be available in full strength. The troops must adjust themselves to the use of chemical warfare by the enemy, which may also be released from the air. This anticipation should cause us to relax rigidity of procedure, not to act methodically. On the contrary—as the supreme command for this Eastern Campaign, it has to be brought home to every officer and to the troops.

Advance speedily and ruthlessly—Keep the attack going everywhere by determined use of every means of combat and by relentlessly pushing forward. For this purpose, tanks, strong artillery and heavy weapons must be far up front. Only in this manner can the coherence of the Russian Army be broken up and its masses annihilated on this side of the Dnepr-Dvina line.

* * * * *

4. *Panzer Group 3*, subordinated at first to 9th Army, will advance later on ahead of the left flank of the army group, and will fight its way to Merkine, Olita, and Prienai, breaking through the enemy positions west of the Niemen River, and will capture these crossings. Without waiting for the rear divisions, the Panzer group will make a thrust into the enemy forces presumed to be around Minsk, and will cut them off from Minsk. The Panzer group advances up to the line Molodeczno-Lake Narocz, aiming at bypassing the enemy near Minsk in the north, and will be ready to turn east in the direction of Borisov in order to annihilate the enemy forces near Minsk jointly with Panzer Group 2, which will be advancing on Minsk from the southwest, or to continue pursuing and overtaking the enemy towards the Upper Dvina in the direction of Vitebsk and north of it.

* * * * *

15. *Secrecy*—In order to ensure, on account of its political effect abroad the necessary absolute secrecy in the planning of a

deployment in the East, (to be executed as a precautionary measure), the number of officers to be assigned to the early preliminary work is to be kept as small as possible, and the information given to each individual officer is to be strictly limited to the requirements of his particular task. The circle of persons to be informed fully is to be restricted as long as possible to the commanders in chief, commanding generals, their chiefs of staff, Quartiermeister and first general staff officers.

Reconnaissance trips into the new area have to be approved by Panzer Group 3. Their purpose must be strictly disguised also toward headquarters and troops now located in the area, and they must be restricted to the inavoidably indispensable number of participants. I forbid to visit any inns east of the Lyck-Treuburg-Goldap line during these trips.

[Signed] HOTH

* * * * *

TRANSLATION OF DOCUMENT 865-PS
PROSECUTION EXHIBIT 589

FUEHRER DECREE, 20 APRIL 1941, APPOINTING ALFRED ROSENBERG
COMMISSIONER FOR THE CENTRAL CONTROL OF QUESTIONS
CONCERNING THE EAST EUROPEAN TERRITORY, AND
SUBSEQUENT CORRESPONDENCE BETWEEN LAMMERS,
KEITEL, AND ROSENBERG

I appoint Reich Leader, Alfred Rosenberg as my commissioner for the central control of questions concerning the East European territory.

An office, which is to be established in accordance with his orders, is at the disposal of Reich Leader Rosenberg for the carrying out of the duties thereby entrusted to him.

The necessary money for this office is to be taken out of the Reich Chancellery treasury in a lump sum.

Fuehrer Headquarters, 20 April 1941

The Fuehrer

Signed: ADOLF HITLER

Reich Minister and Head of Reich Chancellery

Signed: DR. LAMMERS

The Reich Minister and Head of the Reich Chancellery
Berlin W 8, 21 April 1941
Vosstrasse 6

At present Fuehrer Headquarters. Mail without exception to be sent to the Berlin address.

[Stamp] Top Secret

To the Chief of the High Command of the Armed Forces
Field Marshal Keitel
Personal—by courier

My dear Field Marshal:

Herewith, I am sending you a copy of the Fuehrer's Decree by which the Fuehrer appointed Reich Leader Alfred Rosenberg as his commissioner for the central control of questions concerning the East European territory. In this capacity Reich Leader Rosenberg is to make the necessary preparations for the probable emergency with all speed. The Fuehrer wishes Rosenberg to be authorized for this purpose to obtain the closest cooperation of the highest Reich authorities, to receive information from them, and to summon the representatives of the highest Reich authorities to conferences. In order to guarantee the necessary secrecy to the commission and the measures to be undertaken, for the time being, only those of the highest Reich authorities should be informed, on whose cooperation Reich Leader Rosenberg will primarily depend. These are—the Commissioner for the Four Year Plan, the Reich Minister of Economics, and you yourself.

Therefore, may I ask you, in accordance with the Fuehrer's wishes, to place your cooperation at the disposal of Reich Leader Rosenberg in the carrying out of the task imposed upon him.

It is recommended in the interests of secrecy, that you name a representative in your office with whom the office of the Reich Leader can communicate and who, in addition to your usual deputy, should be the only one to whom you should communicate the contents of this letter.

I should be obliged if you would acknowledge the receipt of this letter.

Heil Hitler! Yours very sincerely

[Signed] DR. LAMMERS

The Chief of the High Command of the Armed Forces

25 April 1941

[Stamp] Top Secret

By courier

To the Head of the Reich Chancellery,
Reich Minister Dr. Lammers
Personal

Dear Reich Minister :

I acknowledge receipt of the copy of the Fuehrer's Decree in which the Fuehrer appointed Reich Leader Alfred Rosenberg as his commissioner for the central control of questions concerning the East European territory. I have named Lieutenant General Jodl head of the Armed Forces Operations Staff, as my permanent representative and Brigadier General Warlimont as his deputy.

Heil Hitler!

Yours very sincerely

[initial] K [Keitel]

25 April

The Chief of the High Command of the Armed Forces

25 April 1941

[Stamp] Top Secret

By courier

To Reich Leader Rosenberg
Personal

Dear Reich Leader :

The Head of the Reich Chancellery has sent me a copy of the Fuehrer's Decree, by which he has appointed you his commissioner for the central control of questions concerning the East European territory. I have charged Lieutenant General Jodl head of the Armed Forces Operations Staff and his deputy, Brigadier General Warlimont with the solving of these questions, as far as they concern the High Command of the Armed Forces. Now I ask you, as far as your office is concerned, to deal with him only.

Heil Hitler!

Yours very sincerely

[initial] K [Keitel]

25 April

TRANSLATION OF DOCUMENT NOKW-2726
PROSECUTION EXHIBIT 1401

LETTER FROM DEFENDANT SCHNIEWIND TO HIGH COMMAND OF
THE ARMED FORCES, 22 APRIL 1941, CONCERNING, "BARBAROSSA"

[Stamp] Top Secret

High Command of the Navy
Naval War Staff
B. No. 1st Naval War Staff
Top 00501/41 Top Secret,
Matter for Chiefs

Berlin, 22 April 1941

[Stamp]

Matter for Chiefs
Through officer only
Control No. 1

To OKW/Armed Forces Operations Staff

Subject: "Barbarossa"

No previous correspondence

1. It will probably not be possible to camouflage the "Barbarossa" concentration completely. The enemy will thus be given time to prepare and carry out the corresponding counter-measures.

2. In the opinion of the Naval War Staff the possibility cannot be disregarded that Soviet forces may attempt to leave the Baltic while peace is still unbroken, when they recognize that the time of attack is drawing near.

The escape of Polish destroyers at the outbreak of war in 1939, constitutes a precedent for such a measure.

After having left the Baltic, the Soviet forces could immediately sail to bases in the White Sea, or they could wait in the Arctic Sea until the situation has been clarified, and then perhaps sail to British bases.

3. An escape of Soviet forces is highly undesirable. The plan to render the White Sea Canal useless would be ineffective, surface vessels and submarines would considerably increase the threat to our own sea communications along the coast of Norway and in the North Sea.

4. It must, therefore, be decided how the German forces should act if faced with such measures of the enemy, and what would, in a given case, be the exact time as from which measures of a military nature would be permissible to counter an escape of Soviet forces.

The fact that the operations of the army must be taken into consideration, will rule out such measures as will cause a pre-

mature outbreak of the conflict, i.e., offensive measures in the first instance. It appears possible, however, to have certain defensive measures in readiness at an early date (X-4 weeks). A blocking of the Baltic approaches, (Great Belt and Sund) and of the Gedser Straits, with a special view to the above purpose, would be the most effective and least conspicuous way. Corresponding measures will be prepared.

5. Application is herewith made that permission should be given to employ arms as from X-4 weeks onwards in the case of Russian attempts to escape.

BY ORDER:

Signed: SCHNIEWIND

Certified:

[Signed] von MELLENTHIN
Lt. Commander

TRANSLATION OF DOCUMENT NOKW-241
PROSECUTION EXHIBIT 1219

NOTES FOR ORAL REPORT, 28 APRIL 1941, CONCERNING
FINLAND'S PARTICIPATION IN OPERATION BARBAROSSA,
SIGNED BY WARLIMONT

[Stamp] Top Secret

Department National Defense
No. 44594/41 Top Secret
Matter for Chiefs (I Op.)

Fuehrer Headquarters, 28 April 1941
7 copies—6th copy

[Stamp]

Matter for Chiefs
Through officer only

Notes for oral report—Proposal for the preparation of conferences on Finland's participation in the operation Barbarossa

I. *Preliminary remarks.*

(1) The military conferences must be preceded by *political contacts.*

(2) The proposals are based on the fact that, at first an authoritative officer of the *Finnish Army High Command* and of the *Finnish Navy* are being informed in Berlin of our intentions by the conferences enumerated below.

Over-all German operational intentions may be camouflaged during these conferences by, (a) the over-all plan not being mentioned at all and (b) the intentions from the Finnish area being represented as possible necessary offensive-defensive measures.

(3) It is proposed to permit conferences concerning the improvement of the Finnish ground organization for the German Air Force *immediately*—independent of the conferences mentioned below. Commander in Chief Air Force will determine the proper camouflage for this.

II. *Time schedule of conferences*

The time schedule proposed below is based on the assumption that it will be feasible to establish approximately 12 June as B-day. The measures to be agreed upon require a starting time of about 4 weeks; this means that the conferences must be *concluded on 15 May*. On this assumption, *the beginning of the conferences* is to be initiated, as early as possible, at the latest on 5 May.

III. *Sequence of conferences*

1. In the presence of the *Chief of Staff of the Armed Forces Commander Norway*, the *Chief of the Armed Forces Operations Staff* informs the Finnish representatives of the German intentions and of the mission with which the Finns will be charged in this connection. Draft of a *conference note enclosure 1*.

2. Subsequently, the Finnish representatives will be at the disposal of the *High Commands of the Armed Forces' branches*, and of the *Armed Forces Commander Norway* for conferences.

3. After having worked over the German demands, the Finns will be given the possibility to clarify any possible dubious problems in a subsequent *second conference*.

4. The requests to the Finns by the *Armed Forces Quartiermeister Staff (OKW/L IV)* are summarized in enclosure 6, to be taken along by the Finns. Concerning this, no conference is required, since these requests are to be submitted in the form of a written memorandum.

5. *In conclusion*, the *intentions concerning the camouflaged continuation of the conferences* with the Finnish Armed Forces are to be established. *Conclusion of all conferences*—15 May at the latest.

IV. *Points of discussion in the individual conferences*

The requests submitted up to now by the armed forces' branches and by the *Armed Forces Commander Norway* are summarized in the enclosures below for information concerning the extent of the individual conferences to be held by the armed forces branches.

Commander in Chief Army, Enclosure 2

Commander in Chief Air Force, Enclosure 3

Commander in Chief Navy, Enclosure 4
Armed Forces Commander Norway, Enclosure 5
Note re: requests of the Armed Forces Quartiermeister Staff,
Enclosure 6

Signed: WARLIMONT

Certified:

[Signed] DANCKWORTH
Captain

Distribution:

Armed Forces Operational Staff, 1st copy
Chief National Defense, 2d copy
I Army, 3d copy
I Navy, 4th copy
I Air Force, 5th copy
IV, 6th copy
War Diary, 7th copy

PARTIAL TRANSLATION OF DOCUMENT 873-PS
PROSECUTION EXHIBIT 1220

MINUTES OF CONFERENCE WITH CHIEF OF DEPARTMENT NATIONAL
DEFENSE ON 30 APRIL 1941, CONCERNING "BARBAROSSA"

[Stamp] Top Secret

National Defense IV/Quartiermeister

[Stamp]
Matter for Chiefs
Through officer only

Fuehrer Headquarters, 1 May 1941

1 original copy

Conference with Chief "L" on 30 April 1941

1. *Timetable Barbarossa*—The Fuehrer has decided *Operation Barbarossa* begins 22 June. From 23 May maximum performance timetable. At the beginning of operations the High Command of the Army reserves have not yet reached the appointed areas.

2. *Proportion of actual strength in the plan Barbarossa*

Sector North—German and Russian forces approximately of the same strength

Sector Center—Great German superiority

Sector South—Russian superiority

3. *Russian deployment*—Continued movements of strong forces to the German-Russian boundary

4. *Estimate by the CinC of the Army to the course Barbarossa will take*

Presumably violent frontier battles, duration up to 4 weeks. In course of the following development weaker resistance may be expected.

Opinion of Russian soldiers—A Russian will fight on appointed spot up to the last breath.

5. *Conversations with Finland* are approved by the Fuehrer according to the OKW/WFSt Department L I Op 44594/41. Top Secret Matter for Chiefs of 28 April 1941.

6. *Conversations with Hungary* are only possible in the last third of May. The Fuehrer believes the Hungarians will be prepared to carry out defensive operations on the Russian border, but they will not allow a German attack from Hungary.

7. *Conversations with Rumania* will be possible only at a very advanced date.

8. Concealment of conversations with friendly countries; projected German assault in the West, hence eastern front must be covered. Participation of friendly countries only as a purely defensive measure.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2730
PROSECUTION EXHIBIT 1403

LETTER FROM DEFENDANT SCHNIEWIND, 9 MAY 1941, TO COMMANDERS IN CHIEF OF THE ARMY AND OF THE AIR FORCE, AND TO DEPARTMENT NATIONAL DEFENSE, CONCERNING CAUCASIAN OIL REGION

[Stamp] Top Secret

High Command of the Navy
Naval War Staff I Op 00599/41 Top Secret
Matter for Chiefs

Berlin, 9 May 1941

[Stamp]
Matter for Chiefs
Through officer only

[Handwritten] To Counterintelligence office

To:

CinC Army (Operations Section), Copy 1
CinC Air Force (Air Force Operations Staff), Copy 2

For information to :

OKW Armed Forces Operations Staff/National Defense, Copy 3
[Stamp] Copy No. 4

Subject: Caucasian oil region.

Reference: OKW Armed Forces Operations Staff/National Defense No. 44564/41 Matter for Chiefs, dated 4 May.

The Naval War Staff adopts the following attitude with regard to the study sent with reference number, concerning the importance, confiscation and exploitation of the Caucasian oil fields :

I. The consideration should take in two points.

1. Judgment of the possibilities for the supporting the occupation of the oil territories.

2. Possibilities for exploiting the presence of oil for the Axis Powers after the occupation.

II. Possibilities of support when taking possession.

1. The Navy has no fighting means of its own in the Black Sea. As long as the Soviet fleet is not eliminated from the Black Sea, the Rumanian fighting forces, training at present under a German instructional detachment, will not be sufficient, (even if the German training activity is completely successful) to protect any troops or important transports of equipment from the area at present under military control across the Black Sea as far as the Crimea, or still further eastwards against the superior Soviet Black Sea fleet.

* * * * *

3. Summarizing, it may be stated that, a support of the operation for the capture of the Caucasian oil fields by the navy is not possible because of the lack of all means and in view of a very much superior enemy.

III. Possibilities for the exploitation of the presence of oil.

1. The Naval War Staff has only the problem of transport by sea to consider here. This is divided up into, (a) a technical and (b) a military part.

2. From the technical point of view the exploitation of the presence of oil in the Caucasus for the Axis Powers is predominantly a question of the tanker space available.

* * * * *

The conveyance of tankers into the Mediterranean basin can only take place with the help of France or Spain and/or after the English have been dislodged from Gibraltar.

3. *a.* Military difficulties for the tanker voyage to Italy could only result from, at the most, isolated British submarines, after the Soviet Russian Fleet in the Black Sea has been put out of action. It is considered extremely improbable that submarines would penetrate into the Black Sea, in view of the possibilities we have of putting pressure on Turkey.

* * * * *

d. Endangerment coming from Gibraltar after Crete and Malta are eliminated, is to be regarded as comparatively slight, except for the operation of submarines, above all west of the Aegean Sea.

Gibraltar has, however, its significance in the blocking of the Straits of Gibraltar, whereby the conveyance of further tanker space is rendered difficult and/or impossible.

4. Summing up, it can, therefore, be stated—From the military viewpoint, the elimination of the enemy, first from the eastern Mediterranean by the capture of Crete and Alexandria, later from Malta, is desirable, if not necessary, for the secure exploitation of the oil supply from the Caucasian oil fields. An elimination of the enemy from Gibraltar will make the Mediterranean an area completely dominated by the Axis and, with that, the most important supply line of the Axis Powers, not for Caucasian oil alone.

BY ORDER:

Signed: SCHNIEWIND

Certified correct:

[Signed] VON MELLENTHIN

Lt. Commander

[Seal]

High Command of the Navy

PARTIAL TRANSLATION OF DOCUMENT NOKW-2510
PROSECUTION EXHIBIT 1226

COVERING LETTER AND COMBAT DIRECTIVE FROM FORTRESS STAFF
ALLENSTEIN TO SUBORDINATE UNITS, 11 MAY 1941, SIGNED
BY DEFENDANT REINHARDT

Enclosure 11a

[Stamp]

Top Secret

Through officer only

Fortress Staff Allenstein*

Sec. Ia No. 83/41, Top Secret Matter for Chiefs

* Code designation of XLI Army Corps commanded by Reinhardt.

Subject: Combat directive pertaining to operational order.

Written by an officer

Staff Headquarters, 11 May 1941
10 copies—10th copy

We send enclosed the combat directive pertaining to the operational order, for the personal information of the commanders of unit headquarters [Dienststellen].

On behalf of Fortress Staff

The Chief of Staff
[Signed] ROETTIGER

Distribution (only on draft):

- 1st copy, 1st Panzer Division
- 2d copy, 6th Panzer Division
- 3d copy, 36th Mtzd. Inf. Division
- 4th copy, 269th Inf. Division
- 5th copy, Arty. Commander 30
- 6th copy, Eng'r. Regimental Staff 628
- 7th copy, General
- 8th and 9th copy, extra copies
- 10th copy, draft

[Stamp]
Matter for Chiefs
Through officer only

[Stamp]
Top Secret

Matter for Chiefs Through officer only
Written by officer
Enclosure to Fortress Staff Allenstein Ia
No. 83/41 Top Secret
(Matter for Chiefs)

11 May 1941
10 copies—10th copy

Combat Directive

The war against Russia is the inevitable result of the struggle for survival forced upon us, especially the struggle for the economic independence of greater Germany and the European territory under its rule. It is the old fight of the Germanic race against the Slavs, the defense of European culture against a Muscovite-Asiatic flood, the thrusting back of Jewish bolshevism.

The aim of this fight must be to smash the present Russia, and it must, therefore, be conducted with utter ruthlessness. The complete merciless annihilation of the enemy must be the inflexible purpose of the planning and execution of every combat operation. In particular, no mercy must be shown to the followers of the present Russian-Bolshevist system. (Excerpt from enclosure 2 of Command of Panzer Group 4 Ia No. 20/41, Top Secret Matter for Chiefs, 2 May 1941)

Enemy situation and terrain—In Lithuania, as well as on the other sectors of the Russian front, the enemy is probably expecting our attack. But we hope he will remain in the dark as to the time of our attack and as to the direction of the push of the Panzer group, especially as it will be directed towards a terrain which is rather unsuitable for Panzer troops. For a considerable time the enemy has been making preparations for defense, but up to now they have been impeded by weather conditions.

* * * * *

[Signed] REINHARDT

TRANSLATION OF DOCUMENT NOKW-2706
PROSECUTION EXHIBIT 1229

ORDER FROM SECTOR STAFF EAST PRUSSIA TO SUBORDINATE UNITS,
17 MAY 1941, CONCERNING PREPARATIONS FOR, "BARBAROSSA",
SIGNED BY DEFENDANT VON LEEB

Sector Staff East Prussia
Ia/Engineers 415/41 Top Secret

Headquarters, 17 May 1941
7 copies—1st copy

[Stamp] Sub-Sector East Prussia I
Ia No. 167/41, Top Secret, Matter for Chiefs

[Stamp] Top Secret

[Stamp]

Matter for Chiefs
Through officer only

[Handwritten] Army Chief Engineer Officer [Initials] 18 May.

During his visit on 15 May 1941, the Commander in Chief of the Army has given permission to go ahead with the preparation of the construction of the bridges across the Memel. In this connection, he expressly stated that all preparatory measures are to be carried out as late as possible and by maintaining the strictest camouflage.

The construction of the Memel bridges is now to be prepared in such a manner that the bridges will be usable after sunset on 18 June 1941.

I expect that the ordered camouflaging of any and all preparations will be carried out with all means available and at the personal responsibility of all commanding officers concerned.

I expect this not only for the construction of the Memel bridges, but also as far as all other preparations for, "Barbarossa", are concerned.

The Commander in Chief

[Signed] [VON] LEEB

Distribution:

- 1st copy, Sub-Section East Prussia I
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- 3d copy, Panzer Group 4
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PARTIAL TRANSLATION OF DOCUMENT NOKW-3485
PROSECUTION REBUTTAL EXHIBIT 9

SPECIAL INSTRUCTIONS FOR CASE BARBAROSSA, ISSUED BY OKW
ON, 19 MAY 1941, WITH ENCLOSED, "DIRECTIVE FOR THE
CONDUCT OF THE TROOPS IN RUSSIA"

[Handwritten] IV Qu

[Stamp]

Matter for Chiefs
Through Officer only

[Stamp]

Top Secret

OKW/Armed Forces Operations Staff
Department National Defense (IV Qu)
No. 44560/41, Top Secret, Matter for Chiefs

Fuehrer Headquarters, 19 May 1941

35 copies—19th copy

Reference:

1. OKW/Armed Forces Operations Staff/Dept. National Defense (I) No. 33408/40, Top Secret, Matter for Chiefs, 18 December 1940.
2. OKW/Armed Forces Operations Staff/Dept. National Defense (IV Qu). No. 44125/41, Top Secret, Matter for Chiefs, 13 March 1941.

Subject: Case, "Barbarossa"

Special Instructions No. 1 to Directive No. 21
(Case "Barbarossa")

[Handwritten] Original for information to:

Qu 1
Qu 3
K
Adm.

I. *Area of operations and executive power*—The required instructions for East Prussia, the Government General, and the territories to be occupied in the "Barbarossa" area are given in decree No. 2 (forwarded to High Command of the Army, OKW and CinC Air Force only).

II. *Food and supplies in the territories to be occupied in the "Barbarossa" area*—The special conditions in the "Barbarossa" area necessitate an extensive *exploitation of the country under a rigid leadership*, especially in the field of food supplies, in order to supply the troops.

The troops must be aware of the fact that *every saving* in supplies, especially food supplies, will increase the range of the operations.

On the other hand, however, it is necessary to *preserve and protect the production of the country, especially in the agricultural sector*, so that it may be utilized at the earliest possible date to ensure *contribution to the German food supplies*.

III. The table of organization and the tasks of the *economic organization* to be set up in the occupied territories in the "Barbarossa" area are contained in enclosure 1.*

IV. *Counterintelligence measures of the troops*—The High Commands of the branches of the armed forces will make arrangements to have the disciplinary superiors keep a check on the mail after the arrival of the transports and until the beginning of the operations. Troops in the Government General and on foreign soil are, until the beginning of the operations, allowed only to use the army postal service.

V. *Passenger traffic and interchange of goods*.

* * * * *

VI. *Signal communications*.

* * * OKW/WFSt/Armed Forces Operations Staff/Dept.

* Reproduced as part of Document NOKW-3485, Prosecution Rebuttal Exhibit 9, in section VII E 2, volume XI, of this series.

National Defense will order the exact time of the beginning of the communications black-out.

[Handwritten] The time fixed 21 June 1930, hrs passed on to Lt. Col. Martini.
[Illegible initial] 21 June 1200 hrs.

VII. *Administrative provisions* for the territories to be occupied in the "Barbarossa" area, effective until the territories are taken over by the armed forces commanders and/or Reich Commissioner.

a. Booty.

(1) *For directives on booty, requisitioning of supplies and services (private property) in Case "Barbarossa", see enclosure 2.*

(2) *For directives for the seizure and registration of booty see appendix to enclosure 2.*

(3) High Command of the Navy and High Command of the Army will define the authorities of the agencies commissioned with the *seizure of ships and cargoes* in accordance with the prize laws and will make arrangements to ensure that ships and cargoes seized in accordance with prize laws *are also placed immediately at the disposal of the troops*, as far as this is required.

b. Billeting of any kind is *not* to be paid for by the troops; billeting certificates are *not* to be issued.

c. War damages—Damage to person and to property of the indigenous population, inflicted *in connection with military operations*, is war damage and as such is to be compensated for.

Damage inflicted on the indigenous population which has no connection with military operations will be settled later—after the Reich Commissioners have taken over the territories. *The implementation provisions will be issued by OKW (General Armed Forces Office/Armed Forces Administration).*

d. Monetary affairs—The general payment regulation for the armed forces in non-German territories (Decree OKW 59 B/1 General Armed Forces Office/Armed Forces Administration (Xa) No. 5800/41, 10 February 1941) will be effective with the following changes:

(a) The monetary needs will be covered by Reich Credit Bank bonds.

(b) As far as the decree provides for the exchange of *service pay*, one month's pay may be exchanged.

The currency regulation for armed forces in non-German countries will be effective for the troops marching into the "Barbarossa" area from non-German territories (decree OKW 59 B/ General Armed Forces Office/Armed Forces Administration (Xa) No. 5801/41, 11 February 1941). High Command of the Army

will see to it that the *currency* needed in the "Barbarossa" area is made available and that *exchange offices* are set up in the "Barbarossa" area.

The *armed forces rate of exchange* will be fixed and announced in time by OKW (General Armed Forces Office/Armed Forces Administration).

VIII. For instructions for the conduct of the troops in the "Barbarossa" area see enclosure 3.

IX. A separate decree of the Fuehrer has been issued on the *execution of the judiciary power in the "Barbarossa" area and special measures of the troops.**

X. For provisions regarding army mail service see enclosure 4 (will follow).

XI. For provisions on the treatment of PW's see enclosure 5.

XII. As far as German troops are assigned for the case "Barbarossa", in *Rumanian, Hungarian, and Finnish territory, the special regulations* required there will be given separately.

For the German troops located in *Slovak territory, the special regulations* issued for this case—OKW/Armed Forces Operations Staff/Dept. National Defense IV/Qu. No. 00821/41 top secret, 3 May 1941—are effective.

[Handwritten] T. for Finland see OKW/Armed Forces Operations Staff/Dept. National Defense IV/Qu. 44903/41, 10 June 1941. [Illegible initial]

The Chief of the OKW

Signed: KEITEL

[initial]

Certified:

[Signed] DISSEL

Major, GSC

Distribution:

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OKW—Armed Forces Operations Staff, 13th copy

Department National Defense, Chief, 14th copy

* This decree is reproduced below in section B 1.

Department National Defense (IH, IL, IK, II, IV/Qu, War
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* * * * *

Enclosure 3 to OKW/Armed Forces Operations Staff/Dept.
National Defense IV/Qu No. 44560/41 Top Secret Matter for
Chiefs

19th copy

Directives for the conduct of the troops in Russia

I

1. *Bolshevism is the deadly enemy of the National-Socialist German Nation. It is this undermining ideology and its supporters at which Germany's struggle is aimed.*

2. *This struggle demands ruthless and energetic measures against Bolshevik agitators, guerrillas, saboteurs, Jews, and the complete elimination of all active or passive resistance.*

II

3. *Strictest reserve and utmost vigilance toward all members of the Red Army—including the prisoners—is indicated, since treacherous fighting methods are to be expected. Especially the Asiatic soldiers of the Red Army are obscure, unpredictable, insidious, and callous.*

4. *Immediately upon capture of troop units, the leaders are to be segregated from the men.*

III

5. *In the Union of the Socialist Soviet Republics, the German soldier is not confronted with a uniform population. The U.S.S.R. is a state structure which is comprised of a multitude of Slav, Caucasian, and Asiatic peoples and which is kept together by the*

power of the Bolshevist rulers. Jewry is strongly represented in the U.S.S.R.

6. A large part of the Russian population, especially the *rural population, impoverished* by the Bolshevist system, is at heart opposed to bolshevism. In the non-Bolshevist Russian, *national pride* is linked with a deep religious feeling. Joy and gratitude about the liberation from bolshevism will frequently be expressed in a religious form. *Thanksgiving services and processions are not to be prevented or to be disturbed.*

7. Greatest caution is necessary when *talking with the population and in behavior toward women.* Many Russians *understand* the German language without being able to speak it.

The *enemy intelligence service* will be especially active in the occupied territory in order to obtain information on strategically important installations and measures. Therefore, any kind of thoughtlessness, boasting, and blind confidence can have the most serious consequences.

IV

8. *Any kind of goods of economic value, and military booty,* especially foodstuff, fodder, fuel, and clothing are to be preserved and seized. Any kind of prodigality and extravagance is damaging to the troops. *Looting* will be punished by the severest penalties in accordance with military criminal law.

9. *Caution in the consumption of captured foodstuffs!* Water must not be consumed unless boiled (typhoid fever, cholera). Any contact with the population carries with it dangers for health. Protection of his own health is the soldier's duty.

10. *Reich Credit Bank notes and coins* in denominations of 1 and 2 pfennigs as well as 1, 2, 5, and 10 Reich Pfennigs and Renten Pfennigs, are *compulsory tender of exchange.* *Other German money must not be used for payments.*

OKW/Armed Forces Operations Staff

PARTIAL TRANSLATION OF DOCUMENT NOKW-2567
PROSECUTION EXHIBIT 1233

ASSEMBLY ORDER FOR THE BARBAROSSA ATTACK BY FORTRESS
STAFF ALLENSTEIN, 20 MAY 1941, AND ORDER, 7 JUNE 1941,
SIGNED BY DEFENDANT REINHARDT

[Stamp] *Top Secret*

[Stamp]
Through officer only

DRAFT

Fortress Staff Allenstein Command Post, 20 May 1941
Sec. Ia No. 95/41 Top Secret Matter for Chiefs

12 copies—2d copy

Barbarossa

Written by an officer

Assembly Order for the Attack

1. The assembly for the attack is carried out by the mass of the corps during B-2 night and B-1 night. It must be completed in the night before B-day, at the very latest at dawn.

In case some units are to move into their assembly areas before B-2 night, this will be ordered by special instruction, or below.

* * * * * * *

7. *Camouflage*—The moving into the assembly areas and the assembly must be carefully camouflaged.

The following is particularly ordered in this connection:

a. The following lines may not be crossed before the attack in the northern direction, neither with vehicles nor in black uniform.

* * * * * * *

g. Tanks are to be assembled at such a distance from the border that the noise of engines and chains, characteristic for tanks, will not prematurely betray their movements. This is particularly to be observed during southern winds.

The question is still being examined whether the roaring of airplanes assigned over the assembly area may drown the noise of the engines. A corresponding order will follow.

I reserve, for myself, the right to check that all these necessary camouflage measures are carried out.

8. *Air-raid protection*—See corps order for the attack. At assemblies in woods, the danger exists that forest fires are created by the dropping of fire bombs, which may endanger the assembly (vehicles, munition dumps).

Sentries with adequate equipment must, therefore, continuously be stationed there.

9. *Corps Command Post*—from B-1 day in the morning, Polompen estate working staff probably in Tilsit from B-8 days onwards.

Distribution:

[only on the draft]

[Signed] REINHARDT

[Stamp] Top secret

[Stamp]

Through officer only
[Handwritten] 6th Panzer Division
[Illegible initial]

Staff Headquarters, 7 June 1941

Fortress Staff Allenstein

Dept. Ia No. 165/41 Top Secret Matter for Chiefs

Subject: Committing of the 800th Regiment for Special Missions

Written by an officer

7 copies—2d copy

1. The division's imminent battle will offer the possibility to carry out many successful bold strokes against smaller but particularly important objectives, mainly bridges.

2. To carry out these tasks, specially trained and equipped units, belonging to the 800th Regiment for Special Missions, will be employed in the corps area. (Senior commander in the Panzer group area—Captain Walter.) This officer is stationed with Panzer Group 4.

3. It is planned to detail the following:

To the 6th Panzer Division, 3 squads.

To the 1st Panzer Division, 2 squads.

Strength of each unit, about 15 men with one truck.

Commander, with each division will be one officer.

4. Employment of the squads—The 6th Panzer Division will commit one squad against the Kongajly bridge, crossing the border approximately 2 hours prior to Y-hour. The two other squads will be employed later on deep inside, if possible against Gaure bridge, Stegvilai bridge, and Dubysa bridges, east of Raseiniai.

The 1st Panzer Division will only employ their squad deep inside against bridges along the road Tauroggen, Schaulen, and bridges across the Dubysa, east of Kelme.

* * * * *

7. Orders will follow regarding the bringing up of these squads.

[Signed] REINHARDT

Distribution (only on draft):

[Handwritten] 6th Panzer Division.

PARTIAL TRANSLATION OF DOCUMENT 883-PS
PROSECUTION EXHIBIT 1234

LETTER FROM DEPARTMENT NATIONAL DEFENSE, 22 MAY 1941,
CONCERNING CONFERENCE WITH FINLAND

Top Secret

Armed Forces Operations Staff/
Department National Defense (I Op) II Ang.
No. 44638/41, Top Secret, Matter for Chiefs
Fuehrer Headquarters, 22 May 1941
7 copies—6th copy

[Stamp]

Matter for Chiefs
Through officer only

Reference: OKW/Armed Forces Operations Staff/Dept. National
Defense (I Op) No. 44638/41, Top Secret, Matter
for Chiefs, 1 May 1941

Subject: Conference with Finland

Summary of the points discussed at the conference

1. *Reference to the Russian prospects of attack. Declaration that German defense measures are necessary to counter these. Important intention—to anticipate the Russian plans of attack.*

2. *Guide to the German operational intentions for the northern theater of war.*

a. *Seizure of the Baltic states and of Leningrad.*

b. *Thus, robbing the Russian Baltic Fleet of its bases and rendering it incapable of action.*

The German Navy prevents it from escaping from the Baltic.

The German Air Force, from Finnish territory, destroys the White Sea Canal (locks) in order to prevent its escaping into the White Sea.

c. *Occupation of the Petsamo area.*

d. *Attack from the Petsamo area against the Murmansk base. Attack from the Rovaniemi-Kemijaervi area on Kandalaksha and, from there, on Murmansk.*

3. *German demands—Transport of a higher headquarters and a reinforced German division with the necessary assignments, by sea to the Bothnian harbors and, finally, by rail transport to the Rovaniemi region. The intended date 8 June, is for the first unloading.*

Assignment of Finnish heavy artillery (if possible motorized) to the Rovaniemi attack group.

Finnish anti-aircraft artillery defense for the German unloading in the Gulf of Bothnia.

Finnish fighter and anti-aircraft defense for the assembly and the advance of the Rovaniemi group. *Finnish anti-aircraft defense* especially for the road crossings at Rovaniemi and Kemi-jaervi. *Helsinki and Kemi airfields* to be given over to the German Air Force, if required, development according to German wishes.

Distribution of, "Summary of the German wishes as regards supplies." (Errata: in No. VII: delete, "5 mill. Reichsmarks", and insert, "10 mill. Reichsmarks.")

4. *Tasks of the Finnish Armed Forces.*

Army—Early camouflaged mobilization. *Establishment of measures for defense* on the Finnish-Russian frontier.

Time—*Protection* of the *Petsamo area* by the troops there, which must urgently be brought up to wartime strength.

Participation in the attack from the neighborhood of *Rovaniemi* with the strongest possible forces. Two Finnish divisions are suggested for this purpose (there would be no room for more).

Attack on the *Ladoga Canal* and *Svir* from both sides of *Lake Ladoga*. The mass of the Finnish army is to be employed for this purpose. The attack will commence when the German Forces cross the *Dvina*.

Attack against Hango. No German support possible for the time being. Air support (Stukas) only when the region of *Lake Peipus* is reached. *Hango* is to be cut off until the attack commences.

Air Force—Support, mainly for the *Finnish Army*. *Finnish air defense*, together with the protection of the Finnish Army, also protection of the communications network (roads and railways), the most important industries and bigger towns.

The *participation* of *German Air Forces* in considerable strength for the time being only be counted on to a limited degree. For this purpose, the immediate handing over of two airfields, cf. No. 3. *German Air Defense Forces* in Finland only employed to a limited degree for the protection of their own army and air force troops.

Navy—*Operational strategy* against *Russian Naval Forces* in agreement with the German Navy. *Protection* of the Finnish *outpost area on the coast*. Possible *participation* in action against *Hango*. *Mining* of *Petsamo*.

5. *Open questions:*

Settlement of the command.

Occupation of the Aland Islands.

Transport carried out by the *Finnish railways* for the Gulf of Bothnia-Rovaniemi transportation.

The supplying of the *Finnish Army*.

The supplying of the *civilian population*.

Military preparations in the *civilian sector* (air raid protection, evacuation).

Sweden's attitude not clear.

German interest—utilization of the Swedish railways.

On no account Swedish participation in the present preparations.

Contact with the *Finnish Army Command*.

"The German General with the High Command of the Finnish Armed Forces."

In addition, representatives of the branches of the armed forces.

When will this office come into operation?

How can a *camouflaged continuation* of the present conferences be arranged?

As Deputy:

Signed: VON LOSSBERG

Certified:

[Signed] DANCKWORTH

Captain

Distribution:

Chief of Armed Forces Operations Staff

Dept. L [Department National Defense]

Chief

IH

IK

IL

IV

War Diary

PARTIAL TRANSLATION OF DOCUMENT NOKW-2449
PROSECUTION EXHIBIT 1239

ORDER FOR PREPARATION OF DEPLOYMENT, "BARBAROSSA",
FROM XXX ARMY CORPS TO SUBORDINATE UNITS, 4 JUNE 1941,
SIGNED BY DEFENDANT VON SALMUTH

[Handwritten] War Diary

Corps Headquarters XXX Army Corps

Sec. Ia No. 075/41, Top Secret,

Matter for Chiefs

Corps Headquarters, 4 June 1941

14 copies—9th copy

[Stamp] Top Secret

[Stamp]
Matter for Chiefs
Through officer only

Order
for the preparation of the deployment,
"Barbarossa"
(Map 1:200,000)

I. *General situation and intention*

It may come to a conflict with Russia even prior to the end of the war with England.

As precautionary measures, all preparations for a quick campaign against Russia are being taken. The operations necessary for this purpose have the code-name "Barbarossa".

The start of the operations will be ordered uniformly for the entire front. (B-day, Y-hour).

II. *Enemy situation*

Russia will most probably stay on the defensive. An attack is unlikely, but not impossible.

Air attacks against the army to a greater extent than during previous operations, operation of airborne troops against important communication centers in the Moldavian region, and against the oil region of Ploesti have to be expected as soon as the hostilities start. The troops have to adapt themselves to the possibility that the enemy may use chemical warfare agents, also from the air.

Details about the enemy situation will follow; see also, "The Wartime Army of the U.S.S.R., as of 1 January 1941".

III. *Commitment of the command*

The following are assigned :

* * * * *

X. *Maintaining secrecy*

It is absolutely necessary to maintain complete secrecy about all preparatory measures, in view of the political effects abroad. The number of officers who are to be employed for the preliminary works is to be kept as small as possible. They are to be informed only as much as is absolutely necessary to carry out their tasks.

The text of this order may only be passed on in extract form.

Reconnaissance activities in the vicinity of the frontier are to be carried out in an unobtrusive manner and only in civilian clothes or in Rumanian uniform. * * * .

XI. Reports

1. By 7 June, 1200 hours, 198th Infantry Division will report the intended deployment and will submit application for additional forces required for the regulation of the traffic.

2. By 9 June, 1000 hours at the latest, the results of the reconnaissance activities have to be reported.

XII. Corps Command Post is for the time being Strunga (8 km southwest of Targul Frumos) later in the vicinity of Iasi.

[Illegible initial] The Commanding General

[Signed] v. SALMUTH

Distribution:

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Artillery Commander 110, 3d copy
Eng. Regt. Staff 690, 4th copy
Corps Signals Officer 430, 5th copy
Ia, 6th copy
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War Diary, 9th and 10th copies
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PARTIAL TRANSLATION OF DOCUMENT 885-PS
PROSECUTION EXHIBIT 1236

COVERING LETTER AND TIMETABLE BARBAROSSA, 5 JUNE 1941,
DISTRIBUTED BY HIGH COMMAND OF THE ARMED FORCES
TO THREE SERVICE BRANCHES AND OKW AGENCIES

Top Secret

Matter for Chiefs
Through officer only

OKW/Armed Forces Operations Staff/
Department National Defense (I Op)
No. 44842/41, Top Secret, Matter for Chiefs

Fuehrer Headquarters, 5 June 1941
21 copies—13th copy

IV [Initials] v. T. [von Tippelskirch]

9 June

The Fuehrer has approved the enclosed timetable as basis of the further preparations for Case Barbarossa. Should any changes be required during its course, the OKW must be notified.

The Chief of the High Command of the Armed Forces

Signed: KEITEL

Certified:

[Signed] HONIG
Captain

Distribution:

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Economic Armament Office, 21st copy

Enclosure to OKW/Armed Forces Operations Staff/Dept.
National Defense/(I Op.)
No. 44842/41 Top Secret, Matter for Chiefs

Timetable Barbarossa

Status of preparations on 1 June 1941

1. *General matters*—The maximum performance schedule for the eastern deployment went into effect on 22 May.

* * * * *

5. *Air Force*. Air Fleet 3 has taken over command of the aerial warfare against England.

Air Fleet 2 has been withdrawn and transferred to the East.

* * * * *

22 June

Distribution of forces for Barbarossa on the day of attack

Total strength (without units subordinated to the armed forces commander in Norway).

- 80 infantry divisions.
- 1 cavalry division.
- 17 Panzer divisions.
- 12 infantry divisions (motorized).
- 9 security divisions.
- 2 task forces 15th wave.
- 2 infantry divisions, army reserves.
- (already arrived with 4 b—squadron)

Air Fleet 4 with:

- 3 reconnaissance flights.
- 12 bomber groups, of these 1 temporary.
- 6 fighter groups.

Air Fleet 2 with:

- 3 reconnaissance flights.
- 10 bomber groups.
- 8 dive-bomber groups.
- 2 destroyer groups.
- 1 1/3 ground attack groups.
- 9 fighter groups, of these 2 temporary.

Air Fleet 1 with:

- 2 reconnaissance flights.
- 9 bomber groups.
- 3 2/3 fighter groups, of these, 2/3 temporary.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT C-78
PROSECUTION EXHIBIT 1245

NOTIFICATION FROM ARMED FORCES ADJUTANT'S OFFICE,
9 JUNE 1941, AND LIST OF PARTICIPANTS FOR CONFERENCE,
"BARBAROSSA", ON 14 JUNE 1941

[Stamp]

Matter for Chiefs

Through officer only

Adjutant's Office of the Armed Forces with the Fuehrer

Berchtesgaden, 9 June 1941

[Stamp] CinC of the Navy op 00920/41 received: 11 June

Enclosures: List of participants.

[Stamp] Top Secret

Diary No. 7a/41 Top Secret

Subject: Conference, "Barbarossa".

1. The Fuehrer and Supreme Commander of the Armed Forces has ordered the commanders in chief of army groups, armies,

and navy and air force commanders of equal rank to make their oral report for, "Barbarossa".

[Handwritten] seen 1/Naval War Staff.

2. The reports will be made on Saturday, 14 June 1941, at the Reich Chancellery, Berlin.

3. *Timetable.*

- a. 1100 hrs. "Silver Fox"
- b. 1200 hrs.-1400 hrs. Army Group South
- c. 1400 hrs.-1530 hrs. Lunch party for all participants in conference.

* * * * *

[Signed] SCHMUNDT

Colonel, GSC

Chief Adjutant of the Armed Forces with the Fuehrer

List of Participants

I. *Morning and afternoon*

1. *Army:*

Field Marshal von Brauchitsch,
General Halder,
Maj. General Paulus,
Colonel Heusinger,
Lt. Colonel von Gyldenfeldt.

2. *Navy:* Captain Wagner.

3. *Air force:*

Reich Marshal Goering,
Field Marshal Milch,
Lt. General of the Air Force Jeschonnek,
Maj. General Bodenschatz,
Brig. General von Waldau.

4. *High Command of the Armed Forces:*

Field Marshal Keitel,
Lt. General of the Artillery Jodl,
Brig. General Warlimont,
Major (GSC) Christian.

5. *Adjutant's office of the armed forces:*

Colonel (GSC) Schmundt,
Captain (Navy) von Puttkamer,

Major Engel,
Major von Below.

II. *Morning*

1. *"Silver Fox"*:

Army: General v. Falkenhorst, Army Command Norway.

Air Force: General Stumpff, Air Fleet 5.

2. *Group, "South"*:

Army:

Field Marshal v. Rundstedt, Army Group, "South",

Field Marshal v. Reichenau, 6th Army,

Lt. Gen. of Infantry v. Stuelpnagel, 17th Army,

General v. Schobert, 11th Army,

General v. Kleist, Panzer Group 1.

Air Force: General Loehr, Air Fleet 4.

III. *Joint luncheon for all participants*

In addition: General Fromm, General Udet (arrival: 13:40 hours, 78 Wilhelmstrasse.

IV. *Afternoon*

1. *High Command of the Navy*:

Admiral of the Fleet Raeder,

Rear Admiral Fricke,

Captain Schulte-Moenting.

2. *Baltic*:

Admiral Carls, Naval Group North,

Rear Admiral Schmudt, Commander Baltic.

3. *Group, "North"*:

Army:

Field Marshal Ritter v. Leeb, Army Group North,

General Busch, 16th Army,

General v. Kuechler, 18th Army,

General Hoepner, Panzer Group 4.

Air Force:

General Keller, Air Fleet 1.

4. *Group, "Center"*:

Army:

Field Marshal v. Bock, Army Group, "Center",

Field Marshal v. Kluge, 4th Army,

General Strauss, 9th Army,

General Guderian, Panzer Group 2,

General Hoth, Panzer Group 3.

Air Force:

Field Marshal Kesselring, Air Fleet 2.

TRANSLATION OF DOCUMENT 888-PS
PROSECUTION EXHIBIT 1248

LETTER FROM PRISONER-OF-WAR DEPARTMENT, OKW, 16 JUNE 1941,
CONCERNING PW MATTERS FOR CASE BARBAROSSA

Top Secret

[Stamp]
Matter for Chiefs
Through officer only

High Command of the Armed Forces
Prisoner-of-War Department
No. 26/41, Top Secret
Matter for Chiefs

10 copies—third copy

[Stamp]
OKW/Armed Forces Operations Staff/Dept. National
Defense (Kurst)
18 June 1941
No. 471024/41 Top Secret

- [Handwritten]
1. Employment in labor service in the "Barbarossa" area?
2. Prisoners in allied countries?

[Initial] W [Warlimont]

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[Initials] v.T. [VON TIPPELSKIRCH]

19 June

Berlin, 16 June 1941

Subject: Prisoner-of-War matters for Case "Barbarossa"

I. Organization

The responsibility for PW matters in Case Barbarossa covers— for High Command of the Army, for the zone of operations and the area of the German Army Mission to Rumania (see plan of the organization, encl. 1), for OKW/General Armed Forces Office, the home territory including the Government General.

The OKW/General Armed Forces Office has arranged—

a. In the Government General and in Military District I, a PW home organization to take over and take care of the PW's removed from the zone of operations, and

b. Camps in the rest of the Reich territory to take PW's from operation Barbarossa separated from all other PW's.

To a above—The home organization includes the Government General and Military District I and is subordinate to the Commander of PW's for Special Missions in the Government General,

Major General Herrgott, and the Commander of PW's, Brigadier General von Hindenburg in Military District I.

To the Commander of the PW's are attached 3 PW district commanders and 6 permanent PW camp commanders; to the Commander of PW's in Military District I, 7 officers PW camp [Oflag] headquarters with permanent PW camp [Stalag] duties are attached, as well as a permanent PW camp headquarters organization (see enclosure 2). The two commanders of PW's set up from the camps under their command a PW reception center directly at the border of territory of interest to Germany, which takes the PW's from the field army and sends them to the PW home organization.

Position of the PW reception centers of the camps see enclosure 3.

PW's are handed over at the beginning of the operations directly by the armies; as operations progress by the security divisions which are between the front lines and the home territory in the army group rear area. In order to ensure a smooth transfer of the PW's in the operations area to the home territory, liaison officers are furnished to the armies by the OKW. (For regulations, see encl. 4.)

The PW liaison officers are set up by the Commanders of the PW's for each army whose territory adjoins the area of jurisdiction of the appropriate commander. They are to be equipped by the commanders of the PW's with a car each. It is intended to establish armed forces commanders later in the course of operations for the occupied territories, and a commander of PW's will be assigned to them. The organization and field of duties of the commander of PW's will be prescribed in due time.

To b above—In the military districts of the remaining territories of the Reich the following PW camps will be set up:

<i>Military District</i>	<i>Permanent PW Camp No.</i>	<i>Location</i>	<i>Accommodation capacity</i>
II	313	Hammerstein	30,000
II	315	Hammerstein	30,000
II	302	Gr. Born	50,000
II	323	Gr. Born	30,000
IV	329	Zeithain	50,000
IV	304	Zeithain	50,000
VI	326	Senne	50,000
VI	328	Senne	50,000
VIII	318	Lamsdorf	30,000
VIII	308	Neuhammer	50,000
VIII	Officers PW Camp 58	Neuhammer	50,000
X	310	Munster	50,000
XI	311	Bergen	20,000

XI	321	Bergen	30,000
XI		Bergen	50,000
XI	305	Altengrabow	30,000
XX	312	Thorn	50,000
XXI	301	Sieradz	50,000
IV	303	Koenigsbrueck	40,000
			790,000

These camps will be subordinated to the Commanders of PW's in the military districts. The date for the camps to be able to receive prisoners will be announced. Additional camps, "Remember-tow" and "Mitte" are planned in the Government General. As to their employment, channel of command, etc., a special order will follow.

II. Removal of the Prisoners of War

a. From the field armies to the organization in the homeland. From the prisoners taken, one part will be detained by the field armies for their own requirements for labor, and formed into labor companies (road and bridge building, cleaning up work, land exploitation, etc.). The PW's not required for this will be removed to the PW organization in the homeland. Labor allocation within the field armies will be carried out by the troops as well as by the transit camps of the Security Divisions in the Army Group Rear Area. (See encl. 1.) The captured leaders (officers and non-commissioned officers) will be separated at the earliest opportunity by the field armies and removed to PW organizations in the homeland. The separation of captured leaders from the other PW's must also be strictly adhered to in PW organizations in the homeland.

b. From PW organizations in the homeland to the camps in the military districts. The Commanders of PW's for Special Missions and I have to keep the PW quarters filled to their utmost limit of capacity.

In determining the accommodation capacity, the possibility of preventing mass escapes and mutiny, as well as the possibility of providing sufficient sanitary care (danger of epidemics) is to be taken into consideration. Removal of PW's to camps in the Reich can only be undertaken on special orders from the OKW.

III. Treatment of PW's

Bolshevism is the deadly enemy of National Socialist Germany! Extreme reserve and closest vigilance must therefore be observed

toward Red army PW's. Treacherous behavior, especially from Asiatic PW's, is to be expected. Hence, ruthless and energetic measures must be used at the slightest sign of resistance, especially against Bolshevik agitators. Complete elimination of any active or passive resistance! Any contact between the PW's and the civilian population or the guards must be emphatically stopped. The enemy has not recognized the agreement concerning the treatment of PW's of 27 July 1929. *In spite of this, this agreement forms the basis for the treatment of PW's.*

The following exceptions are ordered :

1. No labor employment of PW's *within economy*, only for the immediate requirements of the troops. Employment only *by the column under strictest custody*.

2. No payment for work done. No pay for officers and medical personnel.

3. No confiscation of personal money and valuables. Where the presence of large sums of money arouses suspicion of punishable acts or other illegal acquisitions (distribution of army money), confiscation of this money, as captured money, without receipt and safekeeping, will take place.

4. Reporting of PW's to the Army Information Office is not necessary.

5. The index cards I and II according to Army Regulations [manual] 38/5 are not to be used. With regard to the keeping of special card files as a substitute for keeping lists, a special order will be issued.

6. Clothing and equipment, especially kitchen equipment (army kitchens), table ware, tents, etc., are to be allowed for the PW's with the exception of arms, and given to them when sent to camps in the Reich.

7. A special order will be issued pertaining to the feeding of PW's. Until this decree is issued, regulations for PW's are in force.

8. The regulations concerning "relations of the PW to the outside world" (Protecting Power, relief organizations, etc.) are not applied.

9. Spokesmen, according to Army Regulation 38/5, Art. 43, are not to be appointed by the PW's.

10. Court proceedings against PW's are not subject to the limitations prescribed in the agreement (participation of the Protecting Power, suspension of the death sentence, etc.).

Strictest discipline must be observed in the camps. In order to

assist the guards, reliable PW's are to be selected as camp police. In addition, for security reasons, the counterintelligence will work extensively with spokesmen.

IV. Treatment of the Minorities

Immediately after arrival of the PW's in the permanent PW camps of the organization in the homeland, they are to be separated according to their ethnic classification. For the time being the following members of ethnic groups will be taken into consideration: Ethnic Germans, Ukrainians, White Russians, Poles, Lithuanians, Latvians, Estonians, Rumanians, Finns. In case a further subdivision according to ethnic groups is necessary, further orders will be issued.

The Chief of the OKW

BY ORDER:

[Illegible signature]

Distribution:

Commander of PW's for Special Missions
Major General Herrgott, Kielce, 1st copy
Commander of PW's in Military District I
Brigadier General von Hindenburg, 2d copy

For information to—

OKW/Armed Forces Operations Staff/
National Defense, 3d copy
OKW/Foreign Counterintelligence III, 4th copy
OKW/General Armed Forces Office/PW's, 5th, 6th copies
High Command of the Army/Generalquartiermeister conjointly
with Mil. Commander in the Government General, 7th, 8th
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Commander of the Replacement Army, General Army Office,
10th copy

EXTRACT FROM THE TESTIMONY OF DEFENSE WITNESS FRANZ HALDER*

DIRECT EXAMINATION

* * * * *

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948, pp. 1817-1864; 1867-2156. Lengthy extracts from his testimony have been reproduced hereinbefore concerning many topics in various sections. See index of testimony.

DR. LATERNSEER (counsel for the defendant von Leeb)—Now, in the second half of 1940, troop transfers from West to East took care. Now, what were the kinds of transfers—troop movements involved?

WITNESS HALDER. It was not a very great number of divisions that was involved in these troop movements—divisions were not only sent to the East, they were also transferred within the zone of interior of the German Reich after the conclusion of hostilities with France.

Q. And what were the reasons for these troop movements and transfers?

A. The idea underlying these troop movements was to stop the concentration of troops in France, and to disperse the troops if only for questions of supply and troop training. Now, as to the transfer of the troops to be assigned to the East—I think there were 10 divisions in September 1940—there were special reasons.

Q. And what were these special reasons?

A. The holding of the demarkation line in the East by a few divisions of inferior quality, by the frontier guard service, and other auxiliary units, had proved quite inadequate. Under the pressure of the Soviet Union countless thousands of Poles were driven across the demarkation line into the German occupied territory, which we were unable to prevent, and smuggling, racketeering, and the infiltration of secret service agents were greatly facilitated by the quite inadequate frontier guard. That induced SS Reich Leader Himmler to suggest to Hitler the construction of an eastern wall which he wanted to build with the labor of a million Jews, and for the defense of which he asked for a great increase in SS formations.

Q. Now, what was the attitude taken on this particular point by the military leaders, the OKH, for instance?

A. I don't know whether, apart from the OKH, anybody knew anything at all about this affair. When I learned of this matter I immediately informed Field Marshal von Brauchitsch, and we knew that we should be acting in the spirit of the top level of the army if we took all measures to avert such a development. Now, the means to do that was to make available troops which were becoming free in France, and to secure uniform direction by an army agency in the east for the defense of the frontier.

Q. So that it should not fall into the hands of the SS?

A. Yes.

Q. Why was the prevention of an increase of the SS formations desired?

A. At the OKH I never had any other idea than this—and I think that the top level command authorities had the same idea—that the SS was a kind of antithesis to the army in their conception of military matters and in their absolute subservience to Hitler's will.

Q. Now, one thing I think we have omitted, General. In the dispersal of the troop concentrations in France and the intention to disperse them, did the idea of making things easier for France play any part?

A. Yes, a decisive role in fact, that is the reason why a large number of divisions were transferred to the German area.

Q. The prosecution further maintains that connected with a possible intention to attack Russia, was the dispatch of a military mission to Rumania. Now, do you know anything about the reasons for the dispatch of this military mission to Rumania?

A. The OKH received the order from the OKW. Later I heard myself from Hitler that the dispatch had been brought about by a request made by Antonescu. At that time the question of Bessarabia and danger from Russia was involved.

Q. Now, these transferred divisions, how were they grouped?

A. The grouping of these divisions in the East was governed on the one hand by the idea of achieving an effective sealing of the demarkation line; and, on the other hand, of utilizing the area for food supplies, and for training and resting the troops which had just come from France. The later aspect was also applied to the distribution of troops that had been sent to Germany.

Q. Now, at that time, what was the strength of the opposing Russian forces as compared with the German?

A. I can't state the figures any more. The Russian forces which confronted us were considerably larger than the German forces from the very outset, and above all, in proportion to the task of merely guarding the border, they were disproportionately strong.

Q. When did the regrouping take place—you said, if I understood you rightly, General, that the first regrouping of forces was governed by considerations of the protection of the frontier demarkation line, and also by housing considerations for the troops. Now, at what time did the regrouping take place?

A. The regrouping regarding an operational plan took place after the operational plans had been decided upon, approximately at the beginning of February.

Q. What was the attitude displayed by the military leaders towards Hitler's idea of attacking Russia—I mean, their general attitude?

A. The general attitude was consistently negative. I could almost say that there was a kind of horror at the thought that Germany now should also have to be involved in war with Russia.

Q. When for the first time did you hear about this idea?

A. I have previously mentioned that the idea that the relationship between Russia and Germany might change had already been touched upon—

Q. Would you put it a little more precisely?

A. Well, to be more precise, I heard of this idea from my commander in chief, von Brauchitsch, in the last days of July 1940.

Q. Now, what was your reaction, General?

A. At first I didn't take it seriously. Then von Brauchitsch asked me to think the matter over.

Q. Have you any data for that?

A. At that time we had no records available in the headquarters of the army in the west.

Q. What was lacking, for instance?

A. We didn't even have any maps of Russia then at the western headquarters, except as far as was essential for the defense of the demarkation line. The division of the General Staff dealing with the eastern affairs was not located at the western headquarters, but in Berlin. The intimation made to me by Field Marshal von Brauchitsch at the end of July 1940 was confirmed, not in the sense of an order for an offensive, but by an OKW order, at the beginning of August, according to which the boundary area in the east was to be improved considerably as regards roads and railroads. I would have considered such a measure myself as a warranted defensive measure—and all other parties who learned of this must have regarded it as such—had I not been given that special hint by von Brauchitsch a few days before.

Q. What time was the so-called Barbarossa Order issued?

A. The Barbarossa Order was issued on 18 December 1940. It was the concluding stage of a development in which quite obviously the visit by Molotov to Berlin had played a decisive part.

Q. What was the significant thing about this Barbarossa Order?

A. For the first time in the issuance of orders by the OKW, the Barbarossa Order contained a special section. And in this special section, at the end of the order, it was stated that this order was merely a provisional order in case the relations between Russia and Germany might basically change. It was definitely not an order to be executed, but merely as a kind of provision for the future.

Q. Another question. The prosecution, in point 31 of the indictment, maintains that Field Marshal von Leeb as early as September 1940, had received an order in which the deployment of forces against Russia had been ordered. A map had been added to this order. What do you know about this incident?

A. This must be a misunderstanding. There was no such thing at that time as an order for the deployment of forces against Russia. On the other hand, the movement of troops from east to west would have had to be effected by orders. This also includes movement by rail, distribution of housing accommodation, and so forth. I do not recall the chart or map, but it is quite possible that a map or chart was issued in which these aspects were presented. At that time it was a matter of transferring about 10 divisions—that was in September—to the eastern area, so that the number there was increased to about 25 divisions. The number of divisions in the Reich zone, which was under Field Marshal von Leeb for training purposes, I don't recall; but it was approximately the same.

Q. Could there have been a map for the deployment of forces at that time?

A. There was no plan for deployment of troops at that time.

Q. Was it then a map regarding the housing of troops?

A. Perhaps. I haven't seen it. I presume it was a transportation plan or chart. If you move about 12 divisions to the interior of Germany, then, there is what soldiers call considerable transport movements, and that is represented by charts.

Q. When were the commanders in chief assigned for the army groups provided for the East?

A. For the actual groundwork for an eastern attack, based on the Barbarossa Order of the OKW, they were assigned about the end of January.

Q. By whom?

A. By the Commander in Chief of the Army in my presence.

Q. Was it at that time already settled that the Eastern Campaign was in fact to take place?

A. In view of the situation which was designated by the special section of the Barbarossa Order, there was no change at all.

Q. Now, was von Leeb one of those commanders in chief?

A. Yes.

Q. And who else?

A. Field Marshal von Rundstedt and von Bock—Field Marshal von Bock.

Q. Now, what attitude did these commanders in chief take regarding the idea of a new campaign?

A. At the conclusion of the assignment which took place in the department of the Commander in Chief of the Army who happened to be ill, the gentlemen in question were very much moved by the thought of a new campaign in the East, and each of the three gentlemen expressed to me his anxiety in some form or other.

Q. Do you recall what Field Marshal von Leeb said at the time?

A. No, I don't recall his wording, but the meaning was—Does this thing also have to come upon us? Our forces aren't adequate to cope with such a situation. Politics ought to be able to avert such a cause.

Q. Now, when did the next main conference regarding the Eastern Campaign take place?

A. You mean with the commanders in chief, or do you mean with the High Command of the Army and OKW?

Q. The latter.

A. This conference, the next conference, took place a very short time after the conference with the commanders in chief of the army groups. At the beginning of February 1941—I think it was 4 February—this conference was the result of the Barbarossa Order dated 1940, in which the High Command of the Army had been commissioned to work out an operational plan. That was done in January. In the beginning of February it was reported to Hitler.

Q. Now, who attended this conference?

A. On the part of the OKW, in addition to Hitler, for some time, Keitel; throughout the whole conference, Jodl; also a junior

officer, I don't know who; and on our part, the Commander in Chief of the Army, I myself, and my First Oberquartiermeister who later became Field Marshal von Paulus.

Q. Did the High Command of the Army during this conference advocate the campaign, or what was the attitude taken by them?

A. The question as to whether one ought to try to take a certain position regarding such a campaign, was discussed by me previously with my commander in chief, Field Marshal von Brauchitsch. We agreed that what was most in our hearts was to represent it in such a way that we were to urge the military objections as strongly and as clearly as we could.

Q. Now, what kind of military objections did you have? I mean the objections that were pointed out?

A. The military objections were in the first place objections relating to the inadequate forces on the German side. At that time I called for a reinforcement of the army by fourteen divisions if this campaign was to be carried out. Furthermore, the objections as to the question of the armament of the army. According to peacetime calculations, we estimated that Russia would have about 10,000 tanks to put into the field. Now, on the German side, we had about 3,000 tanks. For eastern conditions, our motorized equipment was inadequate. The question of railroads, which were essential for a speedy conduct of operations, was also unprepared, and could not have been prepared on account of the different gauges, etc.

Q. Now, did you put all those military objections to Hitler at that time?

A. These objections were put to Hitler in complete clarity, and very strongly.

Q. What did Hitler say?

A. His reply showed, as so frequently, that he was well informed about every one of our thoughts well in advance. He was prepared for every one of the items we touched upon, and in lengthy statements, he commented on them and rejected them. For instance, regarding the question of tanks and armored cars, for about ten minutes he held forth, without any written data, on figures for Russian armored cars and tank production, dating from 1928—regarding types, strength, etc., in order to stress that these 10,000 tanks or armored cars, even if they were in existence, would be obsolete, and entirely insignificant. Regarding Russian war production, he also held forth with long statistical figures from memory regarding Russian raw material imports, the Russian workers' movement, etc., with the result that he, as

a specialist in armament questions—that is what he liked to call himself—was able to assess quite accurately that there was nothing behind all these Russian figures. Now, as for the balance of the forces, he called for operations to be conducted in such a way that the first Russian forces confronting us were to be annihilated, after that the forces would be equalized; for he himself could not possibly fulfill the demand for putting new divisions in the field on the German side. The point which I made, that according to reports received from our military attache, the Russian youth was absolutely backing the regime, he thought he was able to dismiss it by saying that decisive initial successes would bring about a complete collapse of the whole Russian system; consequently, my remarks, my pointing out the great spaces of Russia were completely irrelevant. After the collapse of the Soviet regime we would be able to move into these vast spaces without opposition. That is what Hitler said.

Q. How did this conference end, General?

A. The conference ended with an order to start the deployment of troops.

Q. When was the next major conference regarding the Eastern Campaign?

A. As far as I recall, the next major conference took place at the end of March 1941. (*NOKW-3140, Pros. Ex. 1359*).*

Q. Who attended?

A. This conference was attended, in addition to the officers of the OKW and High Command of the Army, who were there by virtue of their offices, by the commanders of the army groups and the commanders of the armies, and I believe also by the commanders of the Panzer groups who were assigned to fight in the East.

Q. What occurred during this conference? Regarding the question of operations, what did Hitler say?

A. From this conference, I recall that Hitler, talking about the political side of the situation, stated that Russia was prepared for war and was able to take the offensive at any time; he however, could not afford to wait for such an attack, but, at such a time as was favorable for German leadership, he would, himself, have to decide on this inevitable struggle.

Q. What kind of preparation was involved therein for the military leaders?

* Diary entry of witness Halder concerning this conference is contained in this document reproduced above in section D 8 b.

A. It was a purely preventive warfare.

Q. Now, what was the attitude taken by the military commanders regarding a preventive war?

A. Preventive war is ultimately a question for political decision and for a soldier as a military operation, it is no different from any other military action. The thought of preventive war is not unfamiliar to military men. As far as I know, it is also contained in the provisions of the Kellogg Pact. Now, if you imagine that—and this is a political opinion—the conflict with Russia was inevitable, then the military men know that the issue of this conflict must not be postponed to such a point of time in which, for instance, the western powers would be ready to strike.

[Recess]

Q. General, we had stopped before the recess when we discussed a conference toward the end of March 1941, which took place between Hitler and military leaders. You said in that connection that Hitler on this occasion expressed his idea that the intended attack on the Soviet Union was a preventive war?

A. Yes.

Q. What possibility existed for military leaders to check and examine whether these statements of Hitler were correct or not?

A. Possibilities existed insofar that one could—militarily speaking—obtain a picture of the steadily increasing Russian military strength facing our front. That was in favor of the ideas expressed by Hitler. To examine and check up political information, no possibility was given to us.

Q. Now, who participated in the total planning of the campaign against the Soviet Union, and who was responsible for this planning?

A. Concerning the technical total planning of this campaign, the responsible participants were the experts of the High Command of the Armed Forces and the High Command of the Army.

Q. Who of the defendants was among those?

A. None of the defendants.

Q. Now, when did the next large conference take place which was concerned with the Eastern Campaign?

A. To the best of my recollection, that was in May, after the Southeast Campaign. Then a large conference took place during which, separated according to army groups, the high military leaders presented their reports orally, concerning the execution of the assignments given them.

Q. You just said in May. I don't know, was it May?

A. I believe it was.

Q. Do you happen to know something about a conference that took place on 14 June?

A. In June there was another conference. That was at the end of the whole period of preparation, and in this conference Hitler once again summarized his ideas. That was in the manner of a final address which had become customary with him, and which took place before events started.

Q. Who participated in that latter conference?

A. The commanders in chief of the army groups and the armies in the East.

Q. How was this conference carried out—what happened during this conference?

A. Once again a survey was given and separated according to army groups. This survey dealt with the execution of the plan, and then there was a brief address by Hitler.

Q. How did the relation between the OKH and Hitler develop during the Eastern Campaign?

A. This relation which had been tense up to then deteriorated during the Eastern Campaign.

Q. What was the reason for this deterioration?

A. The reason was rooted in the constantly increasing intervening on the part of Hitler in the military leadership, and also in the increasing nervousness and irritability which characterized him during this particular period of time.

Q. How did this period of tension end?

A. This tension finally resulted after a number of dramatic occurrences in the retirement of the Commander in Chief of the Army. He resigned.

Q. And what were the reasons for his resignation?

A. The Commander in Chief of the Army, arrived at the conclusion that he should ask for his resignation, because of two main factors. One factor for Field Marshal von Brauchitsch was that his long and bitter struggle for the maintenance of the position of the Commander in Chief of the Army, and for influence in the representation of the ideas of the army, had remained without success. He saw no possibility of improving this situation or effecting any change.

Q. How did it happen—

A. Then there is the other factor. The enormous struggle affected Field Marshal von Brauchitsch's health, and finally he collapsed.

Q. How did it happen, then, that he succeeded in carrying out his intention of resigning?

A. Because Hitler had only waited for that, he wanted to get rid of him. Quite contrary to similar cases, Hitler immediately agreed to the resignation of the Commander in Chief, and only reserved himself the right to name the date when the resignation should become effective, as of course, he wanted to take into consideration the political effect of such a step. According to what Field Marshal von Brauchitsch told me, his application to Hitler was made at the beginning of December and the approval reached him on 19 December, that is the formal approval.

Q. Then Hitler himself took over the post of Commander in Chief of the Army?

A. Yes.

Q. What were the effects of this new step?

A. The High Command of the Army was now deprived of its commander in chief, and ceased to be a unified command which represented the interests and ideas of the army. That decisively lessened its effectiveness. Hitler divided the High Command, which he now took over as Commander in Chief. Purely operational questions which remained in my hands were taken over by him. The special spheres of work of the Commander in Chief of the Army, the training and education of the members of the army, personnel matters of the officers' corps, executive power, jurisdiction—all these he took over himself and transferred them to Keitel as his executive. Also, the higher levels of command in the home army [Replacement Army] which had up to now been in the hands of the Commander in Chief of the Army, was from then on transferred to Keitel.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT WARLIMONT*

DIRECT EXAMINATION

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DR. LEVERKUEHN (counsel for defendant Warlimont): I will now turn to the topic of Russia. The first document is Document

* Complete testimony is recorded in mimeographed transcript, 21-25, 28-30 June, 1-2 July 1948; pp. 6312-7103.

3032-PS, Prosecution Exhibit 1251.* Will you please comment on the document?

DEFENDANT WARLIMONT: This document is the translation of a testimony which I made here in English, as a witness on 21 November 1945, before the examining judge of the International Military Tribunal. The substance of the testimony, which I still maintain today, is that of 29 July 1940, in conjunction with the three officers of the departments of army, navy, and air force, who were the heads of the operational working groups, I and these officers were called by Jodl to a conference. Only we four officers—I as a colonel, and the three other officers—they were either lieutenant colonels or majors, possibly even one of them a captain—were present. On this occasion in the train, where the work of the department was performed, in the railroad station at Bad Reichenhall in Bavaria, Jodl surprised us by telling us that Hitler had decided, or rather that Hitler was of the view that a warlike conflict with Russia would be unavoidable within the foreseeable future.

Jodl pointed out the allegedly inevitable ideological contrasts between national socialism and communism. Furthermore, he talked about the Russian deployment along the new German-Russian demarkation line in former Poland which assumed even more threatening proportions. This deployment was particularly concentrated in the south facing Rumania, and meant even more an immediate danger to the oil region in Rumania. Jodl continued that Hitler was going to try to secure a diplomatic rapprochement with Russia. If, however, this should fail and Russia should thus become adverse to modifying its policy toward Germany, then Hitler was determined to settle the inevitable conflict with Russia by war rather than defer it for a few years and then to begin a new war in order to solve this question. If diplomatic contact should therefore fail, Hitler was determined to forestall the Russian attack and to attack himself in the spring of 1941.

Q. Now, how did this testimony originate, which is before you and which you executed? Does it contain a full statement of your testimony at the time?

A. No. In this testimony here my views are summarized in one sentence, that is the first sentence, possibly even the second sentence. At the time I was told that that was the only fact at issue. Everything else was insignificant.

Q. Is that the sole draft that you made at the time regarding this topic?

* Document reproduced above in this section.

A. No. In two further drafts I made more detailed comments. That was in one draft of my own which I had written as early as September 1945, for a historical commission of the [U. S.] State Department, and a copy of it was sent by me to General Donovan¹ approximately November 1945. About the same time in addition, the events which I have just described are stated in the joint declaration of the five generals made in November 1945, the Generals von Brauchitsch, Manstein, Halder, Westphal, and myself, and this was also handed at the time to General Donovan (3798-PS, Prosecution Exhibit 1451²).

Q. At the time reference was made in your testimony to statements by Hitler and Keitel. How did you hear about these events, did you know them at the time?

A. On 29 July 1940, I did not know about these events. Some-time afterwards I saw a memorandum which was signed by Keitel and was probably for the War Diary of the Armed Forces Operations Staff. I took it from this memorandum that even before 29 July 1940, Hitler had discussed with Keitel and probably also with Jodl, the possibility of opening a preventive war against Russia in the fall 1940. Keitel in his memorandum stated the reasons which were against such an early beginning of the war against Russia.

Q. Thus, you were not prepared beforehand by any previous communications, for the statements made to you by Jodl?

A. No, at that time we four officers were amazed, we were stupefied.

Q. What was your view of the situation?

A. We held the opinion that with our victory over France the war was more or less decided and won, and that at the utmost a speedy end of the war could be foreseen with the landing operations in Britain which were in preparation at the time. Therefore, we could not conceive that before a final solution in the West, any thoughts could even be entertained as to take upon oneself the risk of such an incalculable enterprise as a war in the East. It was all the more unintelligible to us since the German Air Force was completely tied down by the war against Britain at the time; nor did we understand that Hitler had only just concluded a treaty with Russia in 1939, and that this treaty was suddenly to come to an end. We understood this all the less since Hitler, in different speeches, had claimed special credit for his having saved Germany from a war on two fronts, but now it appeared to us

¹ Major General William J. Donovan, wartime Director of the U. S. Office of Strategic Services.

² Document reproduced above in section B 3.

as if Hitler, upon his own decision, wanted to bring about the war on two fronts.

Q. Did you voice this view of yours to Jodl?

A. Yes, with unusual clarity. The surprise was so great and our consternation was so profound, that military etiquette could not be observed in the questions which we asked, and the protests which I and the other officers put to Jodl at the time.

Q. Did Jodl make any more statements?

A. He replied to our objections and enlarged on the political and military dangers of Russia's attitude, and we had no opportunity to verify his statements. He also pointed out the Russian assault on Finland, the expansion of Russian power in the Baltic region, and the Russian action against Rumania, which was clearly depicted at the time. In addition we knew ourselves, without our having given so much attention to it at the time, that in the former Poland, frontier incidents frequently and continuously occurred between the German and Russian frontier guards along the demarkation line.

Q. We will submit an affidavit of General Kreipe, Document Warlimont 69, Warlimont Defense Exhibit 67* this affidavit deals with the deployment of the Russian Air Force at the time.

Now, did you think that the prospects, according to Jodl's statements, were final, or did you think there was any possibility of exerting any influence in order to effect a change in the events?

A. From Jodl's statements it could not clearly be discerned how far Hitler's intentions regarding this topic had progressed, but we in the Department National Defense, put all our hopes on the diplomatic clarification which Jodl had mentioned was to take place in the same year, 1940.

Q. Now, did you yourself deal with other matters in order to divert attention from the Russian plans?

A. Yes. In this case, too, an opportunity seemed to proffer itself to counteract such a development. On our own we hoped to divert such a possibility by supporting with all the strength available to us the preparations for the landings in Britain. That was in line with the appraisal of the strategical situation as we saw it. In addition, we also believed that such a landing, if effected, would make any further plans against Russia impossible. Therefore, the Department National Defense at the time, in the months of August and September, took steps much more actively than it had done or should do to smooth out all the difficulties in the way of a landing operation against Great Britain.

* Document reproduced below in this section.

Q. Did Hitler at the time immediately cease his preparations for landings in Britain, or what else was done?

A. Hitler did not cease preparations before the first days of December 1940, but whoever knew Hitler and Hitler's entourage could notice that in this case, the urgency and the emphasis was completely lacking which could be detected in all other measures which Hitler had proposed.

* * * * *

Q. What was it brought to your attention at the time whether Hitler had already talked about his Russian plans with the Commander in Chief of the German Army or other personalities, apart from Jodl, of course?

A. No, I didn't know about it.

Q. What did you learn about this topic subsequently?

A. Further particulars I took from the diary of General Halder submitted by the prosecution in this case, which revealed that the OKH [High Command of the Army], as early as July 1940, by order of Hitler, had examined very closely what possibilities there were for a deployment of forces against Russia.

Q. Did the army, upon this order, make an appropriate report after an interval?

A. I can merely base my reply on the statements in Halder's diary which show that the OKH on 22 July 1940, that is eight days before this conference which Jodl had with the officers of my staff, reported to Hitler approximately this: The deployment would take four to six weeks, 80 to 100 divisions would be needed. The objective, if I am not mistaken, would have to be the Dnepr line or at any rate a line which would be so far forward in Russia that air attacks on German territory need no longer be feared. This once again shows the defensive idea which underlay the whole plan.

Q. Did oral reports to Hitler take place at that time on the part of the army and if so, did you take part?

A. I only know about this from Halder's diary. I did not participate, nor did I know about it. The diary reveals, however, that two days after this conference in Bad Reichenhall in Bavaria, the Commander in Chief and Chief of Staff of the German Army made a detailed oral report to Hitler. On this occasion the first decisions were made.

Q. For such oral reports the High Command of the Army needed data. Did you possess these data, and did you yourself in

the Department National Defense have data of your own, or did you use data supplied by the army?

A. In our Department National Defense we had no facilities for procuring such data or of getting them ourselves. We could merely secure them from the High Command of the Army. However, if important questions were concerned such as in this case, then it would have been contrary to all custom if the Commander in Chief of the Army had not submitted these data himself to Hitler, and he did so in this case, as in all other cases.

Q. Now what did Jodl expect or what did Jodl order in this conference at the end of July or subsequent thereto, within his own working staff, including your Department National Defense?

A. First of all I may state what Jodl did not order, because this may perhaps be repeated in conjunction with Jodl's statement which was discussed here yesterday. Jodl did not order that the Department National Defense was to examine as to within what period of time deployment of forces against Russia would be feasible. At the time he clearly realized that his department couldn't do it. The diary of General Halder reveals, moreover, that this examination had already taken place, and as a result of these investigations Jodl told us during this conference that the attack had been fixed for May of next year, 1941—so that the date was already fixed and precluded any further scrutiny. However, what Jodl ordered on this occasion was twofold. First, the Department National Defense was to compile all the data for an order to the effect that the western Polish territory was to be prepared as a deployment ground for a deployment of strong German forces. This involved an expansion of railroads, of railroad stations, of highways, of airfields, troop billets, etc. This directive seemed perfectly all right because it contained only that which was necessary at any time for a defensive deployment of forces. This order was issued under Keitel's signature on 9 August 1940, and the heading was, "Expansion for the East". It was not submitted here. Furthermore, on this occasion or at a later occasion, Jodl only issued one other directive referring to the East. He wished to have a study about the military geographical and operational basis for a campaign against Russia. The purpose of the study was described by him as his wishing to be able to make a picture of the conditions, independent of the preparations of the High Command of the Army; because here too, the German Armed Forces had so far not prepared itself at all for such a campaign. This study was delegated to the 1st General Staff Officer of the [Group] Army in the Department National Defense, Lieutenant Colonel von Lossberg. He himself, however,

was unable to make the study with the facilities at the disposal of the National Defense Department. Therefore, he deferred the date on which he handed in the report until the second half of November 1941, and the material he put in, he obtained by virtue of his having participated in the war games on this question which in the meantime had taken place at the High Command of the Army. He could not fulfill his mission in any other way.

* * * * *

Q. Before the recess, Witness, I gave you Document 446-PS, Prosecution Exhibit 1200* and would ask you to comment on it now.

A. The document contains the first basic directive of Hitler for the campaign in the East. It is dated 18 December and is signed by Hitler himself.

Q. According to your knowledge what preceded this order as regards preparations?

A. At that time I knew, and by studying Halder's diary I have confirmed this, that the Commander in Chief of the German Army, von Brauchitsch, with his chief of the General Staff and a few other officers of the General Staff of the German Army, on 5 December, that is thirteen days before this directive was issued, reported orally to Hitler about the way in which the campaign in Russia should be conducted in the view of the German Army. I knew at that time and I still know today that this oral report was based on war games which had lasted for several days and which took place in November 1940 at the High Command of the Army.

Q. Are those the war games which you mentioned before, from which your collaborator, von Lossberg, took his knowledge for the work he did?

A. Yes.

Q. Well, then, who drew up the contents of this directive?

A. In this case I remember quite definitely that the draft of this directive was sent to me by Jodl on several sheets of paper. These sheets of paper contained everything which Brauchitsch and Halder had mentioned in their oral report to Hitler on 5 December, and we were asked to supplement this for the sphere of the navy and the air force. Apparently the commanders in chief of these two branches of the armed forces had not yet reported orally to Hitler up to then. Therefore, proceedings went as fol-

* Document reproduced above in this section.

lows: in this case again, I sent the chief of the working group air force to the High Command of the Air Force and the Chief of the Operations Group Navy to High Command of the Navy and then they supplemented the draft with the pertinent points for their own services. I myself, however, was absent from the 8th or 9th until the 12th of December, as I have already mentioned before; I was attending German-French discussions in Paris. As a result, I didn't see anything of the editing of the draft of this directive at all, and on 12 December my deputy, Lieutenant Colonel von Lossberg submitted the draft to Jodl.

PRESIDING JUDGE YOUNG: Was that from the 8th to the 12th—that's the way it was translated—of December?

DR. LEVERKUEHN: Yes, Your Honor, from the 8th or 9th until 12th December.

DEFENDANT WARLIMONT: I know definitely about the further progress from notes of a collaborator of that time who was in charge of the war diary. This shows that Jodl made a lot of alterations and sent it back again to the department, and we had to write the whole thing out again. Then on 17 December it was again submitted. Then Hitler made a lot of alterations and in this altered form, no longer influenced by the Department National Defense, the directive was issued on 18 December.

Q. Did you put your initial at the end of the directive?

A. Yes, I did, in order to confirm in this way that the contents at last really corresponded with all orders and alterations which had been given to me by Jodl.

Q. Did you participate in an oral discussion about the contents of the directive, or did you make written suggestions for its alteration?

A. I neither attended a conference about it nor did I influence the contents in any way by written suggestions. On the contrary, during the course of the drawing-up of the draft I received instructions orally and in writing from Jodl as to how this draft should actually be formulated.

Q. Regarding the directive itself, is it final or according to military language, is it merely preparatory?

A. The directive is of a preparatory nature, as can be seen from the very first sentence: "The German Armed Forces must be prepared to crush Soviet Russia", and this is stressed even more by a sentence on page 2 of the original, and I quote: "If the occasion arises, I will order the deployment against Soviet Russia eight weeks before the intended beginning of the operations".

Q. Are there other indications of this nature in the order?

A. Yes, under IV on page 8 of the original it states, and I quote: "It must be clearly understood that all orders to be given by the commanders in chief on the basis of this directive are precautionary measures in case Russia should change her present attitude towards us".

Q. What instructions regarding the activity of the OKW were given in this directive?

A. For the OKW it merely states under V on page 9 of the original that the intended preparations of all branches of the armed forces are to be reported to Hitler through the OKW. Figure III (a) on page 5 of the original reveals again what I have already stated, namely, that the instructions for the German Army are nothing more than the approval of the intention which has already been orally reported by the German Army.

Q. In the period before the issuance of this order in December, discussions took place between Hitler and Molotov; did you receive any official communication about the contents and the results of these discussions?

A. No, I only assumed from the incidents here that the discussions apparently did not take a very satisfactory course, but I could not find out any more details about them.

* * * * *

Q. I now turn to Document 875-PS, Prosecution Exhibit 1207.

A. These are directives for the deception of the enemy, issued by the OKW signed by Keitel, and dated 15 February 1941. The instructions for this can be seen from the document which we have just discussed, without particular mention being made of it. It concerns certain measures which are to be taken in order to conceal the deployment of the German troops in the East.

Q. And it was worked out by your department?

A. Yes.

Q. On instructions from?

A. On instructions from Jodl, according to the directives which were given in the meeting in Berchtesgaden, which has just been mentioned.

Q. I will now show you Document NOKW-243, Prosecution Exhibit 1210. What is this?

A. This is a communication from Keitel, a personal letter from Keitel to Reich Minister Todt. Reich Minister Todt was simul-

taneously chief of the so-called Organization Todt. This organization served as an agency for construction of all kinds and was spread throughout the Reich and the occupied territories. Large parts of the organization are also permanently made available to the armed forces for its own purposes. These people worked in the eastern territories as well as in the Western Occupied Areas; and Keitel now thought that it was necessary for Minister Todt to be asked to take care in his area, too, that the deployment of German troops in the East would not be made known too early. This request is expressed in the letter.

Q. And how did it come about?

A. The letter was drawn up by a member of the Department National Defense on Keitel's instructions. The photostat copy also contains Keitel's handwriting, and it is initialed by Jodl and by me.

* * * * *

Q. I now show you three documents together. Prosecution Exhibits 1219, 1221 and 1234. Exhibit 1219 is Document NOKW-241¹; Exhibit 1221 is Document NOKW-240; Exhibit 1234 is Document 883-PS². These three documents have a common character. To what do they refer?

A. All three refer to military discussions with Finland, in connection with the imminent campaign against Russia. Exhibit 1221 also mentions other countries allied to Germany.

Q. And what about Exhibit 1219?

A. Exhibit 1219 is a memorandum for an oral report of the National Defense Department dated 28 April 1941, which is signed by me and addressed to Jodl. The heading is: Proposal for the Preparation of Conferences on Finland's Participation in the Operation Barbarossa.

Q. When did you hear for the first time about the participation of Finland in the Operation Barbarossa?

A. I heard about it for the first time after the oral report which was made by the Commander in Chief of the Army on 5 December 1940 to Hitler. At that time Hitler seemed already to have given instructions of this kind. These led to the fact that General Halder in January 1941 talked with the Chief of the General Staff of Finland, Heinrichs and made detailed agreements with him about which tasks the Finns would have in the case of a campaign against Russia. From the document previously discussed

¹ Document reproduced above in this section.

² Ibid.

about the conference of von Brauchitsch and Halder—on 3 February 1941 with Hitler, it can be seen that Halder on this occasion also reported to Hitler the results of his negotiations with the Finns. In addition, in the conference on 30 March 1941, Hitler told the assembled generals that the Finns would fight very bravely in the imminent campaign.

Q. If the first conference was conducted by the German Army, why does the matter now go over to the OKW?

A. In the meantime, the High Commands of the Navy and the Air Force and, in addition, the armed forces commander in Norway, had reported their wishes for such discussions with Finland. This can be seen from figure 4 of this exhibit. As a result, it was a typical task of the OKW to coordinate the desires of the navy, army and air force and the armed forces commander in Norway and to submit this summary to General Jodl.

Q. What are the essential contents of this note for an oral report?

A. This is merely the cover letter of it. The desires themselves are set down in a document which was attached, but which, however, is not submitted here.

Q. And what about Exhibit 1221? What does that contain?

A. Exhibit 1221 is a communication from the Chief of the OKW, Keitel, to the commands of the army, navy, and air force, dated 1 May 1941. Details are given about how the negotiations with the allies were to be conducted and when they were to be conducted.

Q. Can you remember that you participated in preparing this document?

A. No, and there is also no initial of mine on it.

Q. What about Exhibit 1234?

A. This is again a note for an oral report of the Department National Defense which was again only meant for General Jodl, that is, the immediate superior. Suggestions for the individual points of the agenda are set down for these imminent discussions with the Finns.

Q. Who signed it?

A. It is signed by the officer who was next in rank to me on the staff, Lt. Col. von Lossberg.

Q. Where were you at that time?

A. From 20 until 30 May, I was again in Paris for the purpose of discussions with the French.

Q. I will now show you Document 873-PS, Prosecution Exhibit 1220.¹ This is a document dated 1 May 1941.

A. According to this document, as chief of the Department National Defense, a conference took place in my office on 30 April 1941. The essential contents of this conference were set down by the chief of the Quartiermeister section, as far as I can see from the heading.

Q. The document has no signature. Can you remember the incidents?

A. No, I do not remember, but I have no reason to doubt that at that time there was a necessity for the officers of the Department to be informed about the state of the preparations. After all, they had to know that in order to carry out their official tasks.

Q. Now, I will show you Document 876-PS, Prosecution Exhibit 1228. This is a rather voluminous document and only parts of it seem to have been translated. It is dated 12 May. What do you know about it?

A. This decree is signed by Keitel and contains further instructions for the deception of the enemy and the continuance of those measures which had already been taken some time before. I cannot find any initial by me on the photostat copy and on the document and don't remember anything about it.

* * * * *

Q. Now comes Document 885-PS, Prosecution Exhibit 1236.²

A. This is the timetable of Operation Barbarossa issued by the OKW on 5 June 1941, with Keitel's signature and compiled in the three operational groups of the Department National Defense. The letter shows that Hitler had approved the timetable as the basis for further preparations for Operation Barbarossa.

* * * * *

I would like to point out the following passage in which it is apparent in this timetable, too, that Hitler had reserved to himself the right to alter his decisions completely. On page 13 of the German text, it states—it is on page 8 of the original—"Preliminary order for Barbarossa day." That is X-day.

Q. What does the term, "Preliminary Order" mean?

A. The term, "Preliminary Order" means in military language an announcement of the final order. On page 15 this intention is

¹ Ibid.

² Ibid.

expressed even more clearly. There it states under No. 23, "The halting of the concentration of forces of the German Army without removal of camouflage is still possible". On page 16, on the day before the date fixed for the attack: Up to 1300 hours is the latest time given for halting the operation.

Q. That is, at the time when this document was issued on 5 June 1941, a final decision was not yet known to you, is that right?

A. Of course, one had to count on the fact that Hitler's decision for execution would come. Hopes that he wouldn't give such an order were very slight, but since he reserved the right until the very final date, it could be seen that he himself had apparently not yet made the final decision, and so I could know about it even less.

Q. Did you sign the cover letter of the timetable?

A. No, it isn't initialed by me, but I certainly checked it before it was submitted for signature via Jodl to Keitel.

* * * * *

Q. Now, I would like to show you Document 888-PS, Prosecution Exhibit 1248.*

A. This is an instruction which was issued by the Prisoner of War Department of the OKW, and it was issued on 16 June 1941. The distribution list shows that it was only sent for informational purposes to several departments, among them the Department National Defense, and that is how I was informed about it.

* * * * *

TRANSLATION OF DOCUMENT WARLIMONT 69
WARLIMONT DEFENSE EXHIBIT 67

AFFIDAVIT OF WERNER KREIPE, 12 APRIL 1948

I, Werner Kreipe, retired Lieutenant General of the Air Force, have been advised that I make myself liable to punishment by submitting a false affidavit. My statement is true and is rendered in lieu of oath for presentation to the Military Tribunal in Nuernberg.

I state: According to information given by Colonel Wolter—from 1940 to 1942 Deputy Chief Ic in the Air Force Operations Staff—the deployment of the Russian Air Force, the improvement of airports and their staffing was primarily discovered by the German radio monitoring service. Confirmation was given in

* Ibid.

part by intelligence agents. As was shown after the beginning of the war the radio monitoring service gave a surprisingly accurate picture of the number of airfields as well as of their staffing in regard to number and type of units. The monitoring definitely showed a deployment of the Russian Air Force west of the Urals, with special concentrations in the territory close to the border.

Goslar, 12 April 1948.

[Signed] WERNER KREIPE

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON LEEB*

DIRECT EXAMINATION

* * * * *

DR. LATERNER (counsel for defendant von Leeb): Field Marshal, now we will have to deal with the time between the end of the campaign against France and the beginning of the campaign against Russia. What transfers of troops were being effected at that time?

DEFENDANT VON LEEB: After the conclusion of the campaign against France, divisions were transferred to the East in the course of the following months and a larger number of divisions were transferred into the interior of the Reich. The headquarters of Army Group B were transferred to the East. I, myself, was at a later date toward the end of October, transferred to Dresden; there I had command over the divisions which were in the Reich and I had to train them; Army Group A remained in the West.

Q. As you stated just now, you were transferred to Dresden; what official seat was being considered apart from Dresden?

A. As far as I know, Munich.

Q. Why was Army Group B transferred to the East?

A. A number of reasons existed for this transfer. Firstly, the massing of the whole German Army in France was to be loosened up, and with this, of course, the war costs for France were to be lessened as well. Furthermore, as far as I know, during the French campaign the East had been almost deprived of all forces; therefore, for reasons of security a number of divisions were transported to the east. How many divisions actually were involved I no longer know. Moreover, the SS wanted to take over the whole of the eastern front, and, I believe, the Commander in Chief of the German Army didn't want that to happen.

* Complete testimony is recorded in mimeographed transcript, 19-22 April 1948; pp. 2277-2534, 7770-7771.

Q. In point 31 of the indictment, it is contended that the Commander in Chief of the German Army on 6 September 1940, sent you an order transferring a large number of forces to the East as a preparation for the campaign against Russia; is that correct?

A. At that time, on 6 September, the situation was the following: Field Marshal von Bock went to the East—

Q. May I interpolate one question; when you say East, what area do you mean?

A. I mean the German eastern front.

Q. The German eastern border?

A. Yes, the German eastern border. At that time I also had to take over the former front of Army Group B in the West, that is, I was now in charge of the front of Army Groups B and C. The whole front to the south in France from the Bay of Biscay up to the Swiss frontier, and in addition, Brittany and Normandy; that was the western part of the Channel coast. General von Rundstedt was with Army Group A, and was in charge of the eastern part of the Channel coast, Belgium and Holland; in other words, he had to take charge of the front against England which came into the question for the so-called [Operation] "Sea Lion".

Q. Was this transfer of divisions to the East, ordered as a preparation for the campaign against Russia?

A. No, nothing of that sort was mentioned in the order. All that was stated in the order was that these divisions were to be moved east in order to loosen up formations in the West. Nothing was expressed in the order about a preparation of a campaign against Russia.

Q. The prosecution further contends that you had received a tactical military map for the deployment in the East, at that time.

A. I cannot remember having received such a chart, nor would I know what I would have done with such a deployment chart. After all, I was stationed in France, in Dijon, and there I had charge of the front against the South. Moreover, I should like to say that according to the German usage of language, the expression "tactical deployment chart" is a contradiction in itself. There can only be an "operational" deployment chart. I could tell you immediately what kind of chart was involved here if such a chart would be shown to me. I assume that it is a chart which showed where the various divisions were to be accommodated; I don't know.

Q. Did the prosecution submit this chart in the course of the proceedings?

A. I didn't see it.

Q. At that time was there any discussion at all of a campaign against Russia?

A. No.

Q. When did you learn for the first time of preparations for a campaign against Russia?

A. As far as I recall, that happened in the second half of the month of December. At that time it was an operational study which was initiated by the General Staff of the German Army. As far as I can recollect, my chief of staff took part in this study; it was to clarify the eastern problems.

Q. When for the first time were you properly informed by your superior?

A. I learned of it, as far as I remember, for the first time on 31 January from von Brauchitsch in his private apartment in Berlin-Dahlem. I was stationed in Dresden at that time and I was asked to go there. There I met the other commanders in chief of the army groups, among whom at that time was Herr von Witzleben. He had taken over my sector in France as a newly formed Army Group D, then the Chief of the General Staff of the German Army was also present.

Q. How did the commanders in chief feel during that conference?

A. Von Brauchitsch told us that there was a possibility of the political situation in the East changing. We were rather depressed about such a possibility, and General Halder has stated here previously what I said during that conference, namely: "Does that have to happen, too"? We were opposed to any further expansion of this war. However, one special reason played an additional part, which is a purely military one; that was the following reason: during my captivity, an American officer once gave me an historical essay to read concerning the campaign in France, that is, viewed from both sides, from the German side and from the French-English side. This report, or essay, was apparently based on reliable sources. Therein one could read that the British Army in Dunkirk escaped right down to the last man; the last sick and wounded British soldier was evacuated to England. Only all the material was lost to England at that time. That is not meant as a reproach against the German officers who were in charge in that district. The reason why the British were able to

escape at that time can only be found with Hitler; Hitler alone is guilty of that fact. He was the one who at that time ordered that our armies which were to be directed towards this area, had, as far as I remember, to stop for two days because he was afraid that we could be attacked by the French on the left flank. That was an anxiety which was solely without foundation. He was probably thinking about the Marne situation in the First World War. Those two days were sufficient, I think, combined with brilliant organization on the part of the British, for them to evacuate and save the whole of their expeditionary force. And so England still stood. The soldiers who had suffered shock recovered quite soon, and material was not difficult for England to replace, and furthermore, I suppose that the support of the United States also played a part in this replacement of material. We now faced the fact of having the Russians on one side of us and the British on the other. We soldiers call that a war on two fronts. That is what Hitler called the most serious crime of the Kaiser's Germany.

Q. And that is what you were thinking of, Field Marshal, when during the discussion in Brauchitsch's apartment the possibility was discussed of having to attack Russia at some time in the future?

A. Yes, the possibility that perhaps a war against Russia might result.

Q. In point 35 of the indictment it is contended that on 3 February 1941 you had a discussion with General Hoth concerning plans or operations against Russia; is that correct?

A. That is correct. I don't believe it was the 3d, but the 4th; but I don't think that is important anyway. The content of this discussion is the following: I just said something about being informed by the Commander in Chief of the German Army on 31 January. During one of the next days, the first order arrived which had reference to the possibility of a war against Russia. Then, the Commander in Chief of the German Army had asked me to come to his office on the 5th of February; he wanted to talk with me about the use of tank formations. I myself had at that time very limited personal experience in the use of tank formations on a large scale. Only once had I been in charge of the so-called Panzer Group Guderian, which has been mentioned before. I was, therefore, interested in talking to a commander of Panzer formations about this question. The following basic principle was involved at that time: were we to employ the large Panzer units united in one large front sector interpolated between the armies, or would it be more expedient to distribute them to

the various armies, thus giving the armies themselves a certain impetus. These were the questions which were discussed and General Hoth whom I mentioned before was at that time my subordinate when I was with the reserve forces in the Reich. I knew General Hoth to be a sober, reasonable, experienced commander of tank formations, and that is why I asked him to come to my office to discuss these questions with me. On the next day I went to see the Commander in Chief of the German Army, and I told him what my opinion was; that the attitude of we three, of the Commander of the German Army, of General Hoth, and my opinion was that it would be more expedient to concentrate all tank formations and to commit them in this concentrated form. I did that later when not Panzer Group Hoth but Panzer Group 4 was subordinated to me for the campaign against Russia.

Q. During that particular period of time, did you have a discussion with officers of the 18th Army as is contended in point 45 of the indictment?

A. I can't recall this discussion. I think that it is improbable that it ever took place. The 18th Army, or the headquarters of the 18th Army, were at that time located on the eastern front. I don't know exactly where, perhaps in Koenigsberg. I myself had nothing to do with the eastern front; at that time I was still stationed in Dresden.

Q. Field Marshal, you stated that towards the end of January 1941, you heard for the first time of the possibility of a campaign against Russia; was it only a possibility which was mentioned then?

A. Only a possibility was mentioned. The order which I received at the time I passed on for my own area of command later, on the 5th of February. Now, this order which I issued on 5 February is contained in the document books; perhaps you can mention that.

DR. LATERNER: May I draw the attention of the Tribunal to the fact that this order can be found in Document NOKW-2452, which is Prosecution Exhibit 1206.*

What was it that you emphasized particularly in that order?

A. In Figure 1 of that order I stated expressly: In case a political change in the East should occur,—“in case” underlined, the following precautionary measures are to be prepared—“precautionary measures” underlined again.

Q. Field Marshal, what was your attitude in respect to a campaign against Russia?

* Document reproduced above in this section.

A. I testified as to that once before; I rejected the idea of such a campaign.

Q. What possibilities did you have to prevent this campaign?

A. There were no such possibilities given to me; no opportunities to take personal issue with Hitler; there was no chance to point out to him the military difficulties involved in the campaign against Russia, which was a country of vast areas. Hitler distrusted us and in the final analysis it was primarily a political question. He distrusted us even in military respects, let alone in political respects.

Q. When did the first conference take place which dealt with the campaign?

A. Towards the end of March 1941.

Q. Who was present during that conference?

A. The commanders of army groups and of the armies; whether the chiefs of staff were present also, I can no longer tell you.

Q. Where did that conference take place?

A. As far as I remember, in the Reich Chancellery.

Q. What statements did Hitler make during that conference?

A. Hitler made one of his elaborate speeches, and the briefest substance of what he said was the following: the possibility has to be expected that Russia will attack us; the possibility has to be counted on that the situation in the East will change and that it will eventually result in an attack by Russia against us. It is necessary, therefore, to prepare for such an eventuality. We soldiers call that a preventive war.

Q. How were these statements of Hitler accepted by those present?

A. I saw no reason to assume that Hitler would be lying to us.

Q. Could you check his statements to find out whether it would be actually a preventive war?

A. I could not do that, neither in a political nor in a military respect. In a military respect, I could not do it because I was not even stationed near the eastern front at the time, but in Dresden; and in a political respect I had no right to demand nor to be allowed to check his statements. Nobody had the right to do that.

Q. In point 36 of the indictment, it is contended that from spring 1941 onward preparations were being made for this campaign against Russia, is that correct?

A. That is correct, but it is after all a matter of course that preparations were made for the eventuality of war. Every other army would do the same thing, and, if another army didn't do the same thing, then it would be wrong in not so doing.

Q. In what position did you participate in the Eastern Campaign?

A. I was Commander in Chief of Army Group North.

Q. How many army groups were committed all in all?

A. Three altogether.

Q. What were they?

A. South, under General von Rundstedt; Center, under General von Bock; and North, under my command.

Q. Who was your immediate superior in your capacity as commander of Army Group North?

A. Up to December [1941] it was the Commander in Chief of the German Army and from December onward, it was Hitler.

Q. What assignments were given to your army group?

A. I had the mission to occupy the Baltic countries, that is, Lithuania, Estonia, and Latvia; further it was my mission to advance towards Leningrad, in order to capture this centrally located junction. In addition, I had to protect the left flank of Army Group Center.

Q. When did the campaign start?

A. On 22 June 1941.

* * * * *

CROSS-EXAMINATION

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MR. MCHANEY: Do you remember the conference which Brauchitsch had with the commanders in chief of the army groups and armies on 19 July 1940? That is shortly after the French campaign?

DEFENDANT VON LEEB: That was after the end of the French campaign? The French campaign started on 10 May, and you are talking now about 19 June. When was that conference supposed to have taken place?

Q. The entry reads, "19 July 1940 conference".

A. July, not June. That is after the French campaign had been concluded. And what was discussed during that conference?

Q. That is what I want to know. It says here, "Conference of Army Groups and Army Commanders with the Commander in Chief of the German Army: objectives for the immediate future".

A. Well, I can imagine that probably [Operation] "Sea Lion" was discussed during that conference, that is the attack against England and the reformation in France. I don't even know where that conference was to have taken place.

Q. Weren't you informed at that conference of the possibility of an attack on Russia?

A. I don't think so.

Q. Brauchitsch and Halder already knew about this date, and serious consideration was being given to an attack in the fall of 1940. Don't you recall that?

A. Against Russia, an attack against Russia? No.

Q. The entry three days later, that is of 22 July, concerning a conference with Brauchitsch, says, "An attack on Russia next fall relieves air pressure on Britain". You are quite clear that you were not informed about any possibility of an attack in July 1940?

A. No, I cannot remember.

Q. And your testimony is that you knew nothing of the plan until the middle of December?

A. That is what I remember, but it was an operational study, and not the plan of a campaign; it was concerning the possibility of a change in the political situation.

Q. And by whom was that operational study made, was it Paulus?

A. By the Chief of the General Staff of the Army or one of his Oberquartiermeister.

Q. Do you recall the conference with your chief of staff, that is a conference called by High Command of the Army with the chiefs of staff of the army groups and armies, that is on 13 December about the eastern operations?

A. That must be the one; that must be that operational study.

Q. And you knew nothing until that meeting, is that right?

A. No.

Q. And the planning for the Army Group A, when did that begin?

A. The plans against France, the planning against France?

Q. Army Group North, pardon me, against Russia.

A. Toward the end of January or beginning of February, but even then only for the eventuality.

Q. Who was put in charge of the attack from Finland towards Leningrad?

A. From Finland. I don't quite know what you mean. It was my task, as can be seen from the chart, to attack the Baltic States. Finland was on the left of my supposed front. It was separated by the Gulf of Finland. I had nothing to do with Finland.

Q. I ask you, wasn't a German officer sent up to plan and carry out the attack on Leningrad from Finland?

A. You mean the other way around, from Finland to Leningrad [sic], from the other side, the attack from Finland directed toward Leningrad? Yes, a liaison officer was sent up for that purpose, I believe, not by me, but by the High Command of the Army or the OKW—and unless I am mistaken, it was General Erfurt, but I cannot make that statement under oath, whether it was he or not, because I don't remember well enough.

Q. Your operation was not coordinated at all with that attack?

A. No.

Q. Now, your testimony is that you accepted the Fuehrer's statement that this was to be a preventive war. Did he give any indication as to when a Russian attack was expected?

A. No—that is—I will have to correct my statement,—if he did I cannot remember it.

Q. Did your experience with the Fuehrer up to that time, including your having heard several of his speeches to the generals, lead you to believe that you could rely on his honesty in the connection?

A. My distrust didn't go quite as far as to assume he was lying to all of us.

Q. You stated that the military had no evidence to contradict the Fuehrer's statement that this was to be a preventive war?

A. No. The Commander in Chief of the German Army might have had that possibility if he had had the necessary information and foundation for making such statements. That, I don't know.

Q. Well, I wanted to put to you just one short extract from the Halder diary dated 5 May 1941, about a month before the attack. This reads that: "Colonel Krebs returns from Moscow where he

substituted for Koestring. He found the Russians very conciliatory. Russia will do anything to avoid war and yield on every issue short of territorial concessions." This information was not given to you but to the Commander in Chief of the Army or Halder?

A. No, I didn't learn about it at all.

Q. Isn't the truth of the matter, Witness, that Hitler and you generals expected to defeat Russia in a few weeks and then have a free hand against England?

A. Only a layman could think that.

Q. Well, Witness, I assure you that that is not my opinion at all, but I can find you four or five references in this Halder here, who I assume is not a layman, in which he indicates just that, that the war will be over very shortly. I put it to you, wasn't really the attack on Russia to eliminate the last power on the continent, so that you would have a free hand against England?

A. That was probably the objective. How long it would take to achieve that aim, is a different question.

Q. Let me put the question to you again. Wasn't it thought by a substantial number of the field marshals and 4-star generals that the war with Russia was going to be over in a few weeks?

A. I don't know that. I never assumed it. I said so this morning. I said that at the beginning of the campaign I had hardly hoped ever to reach the gates of Leningrad, and Leningrad is perhaps only half or a third of the Russian territory up to the Urals.

Q. Didn't Hitler make it abundantly clear to you in this conference of 30 March 1941 that this war with Russia was to be waged by Germany in violation of all rules of war?

A. No, the contrary was said. It was said that it should be expected that Russia would attack us, and in that event we would have to be prepared to anticipate such an attack.

Q. Yes, and then he said that for that reason Germany would have to attack Russia; and didn't he also make it clear that that attack was going to be carried out in a manner which violated all the rules of war?

A. At that time he already made statements about the commissars, as I have also testified previously.

Q. Well, he didn't quite limit it to the commissars, did he, Witness? Didn't he say that you were going to have to exterminate the Communist intelligentsia?

A. I don't know that any longer, whether those words were used. I don't really think so.

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENDANT HOTH*

DIRECT EXAMINATION

* * * * *

DR. MUELLER-TORGOW (counsel for defendant Hoth): At that time, at the beginning of 1941, did you have thoughts about a possible war with Russia?

DEFENDANT HOTH: Yes. My thoughts were as follows: After the surprisingly fast defeat of France, Russia saw herself confronting the whole of Germany's armed power. Apparently Stalin, in spite of the numerical superiority of the Russians, felt himself inadequate to cope with this concentrated German force, because Russian policy avoided all friction with Germany as far as we heard about it. This condition could not last for a long time because Britain had not been defeated and was not prepared to respond to any peace offers of Hitler. One day, therefore, the time was bound to come when we were compelled to switch forces, stronger forces to the west, possibly even the bulk of our forces. Russia had time to wait for this favorable opportunity. After all we had been going through in the course of the war, I mean with respect to the Russian expansionism which was spreading over the adjacent countries like a grease stain, it was not very probable that Russia would, a second time, miss the opportunity to mobilize her machinery of war.

* * * * *

The problem arose from the military aspect of whether Germany was to leave it to Russia to choose the date when Russia would act. At the moment Germany had forces available for the East, but in a year or two years' time the situation might have changed, and then there would be the possibility of being confronted with a two-front war, which we did not yet have in 1941. Those were considerations which I, as a soldier and high ranking military leader had to think about, because I myself had to realize the development of the situation. I had to do it also in order to give direction to the leaders subordinated to me, because none of these officers were prepared for a campaign against Russia; and they as leaders of motorized units had to be sufficiently prepared, if they ever faced Russia at one time or another. The decision on the question of whether Russia could be expected to have the intention of attacking Germany at some favorable opportunity, was something which I, of course, could not decide. One could only

* Complete testimony is recorded in mimeographed transcript, 29, 30 April, 3, 4 May 1948; pp. 3036-3289.

decide that question if one had proper information available to evaluate that question, and only Hitler had such information.

Q. What you mean to say, therefore, is that you were of the opinion at the time that the war against Russia was a preventive war?

A. Yes, in my opinion there is hardly a better example of a preventive war than that one. This was the last available date, seen from the military point of view, when Germany still had a chance to keep bolshevism away from the frontiers of Europe. It was another problem, whether Germany and her allies at that time were capable of coping with this European task.

Q. In the opening statement of the prosecution it is stated that the military leaders of Germany had never ceased dreaming the old dream of the German Reich in the East, and that this dream would now be presently realized with the preparation of a war against Russia with all the means at their disposal. General, did you dream that dream?

A. I did not dream; none of us were dreamers. We faced sober reality. We did not like to start a war against Russia and to enter upon such a war, and it was not only for the reasons which I developed earlier on. I can only talk of my own person, but I also know that the generals and the officers and soldiers under my command, that all of us waged the war against Russia in the holy belief of keeping bolshevism away from our homeland. Dreams of conquest, such as Hitler's, were far removed from our minds. We had no such dreams.

* * * * *

Q. Your own deployment directive, that is for Panzer Group 3, is Document NOKW-2704, Prosecution Exhibit 1211.¹ The document is dated 12 March 1941. Is this deployment directive, a result of the directive mentioned earlier, the one of the High Command of the Army? (NOKW-2705, *Pros. Ex. 1202.*)²

A. Undoubtedly it is, but it came via the detour of the army group to which I was subordinate.

Q. In the same document book there is Document NOKW-2670, Prosecution Exhibit 1209.³ This document concerns the order of the High Command of the Army, dated 21 March 1941. It is addressed to you as well as to a number of other military leaders, and it instructs you to appear on 27 March in the High Command of the Army and on 29 March before Hitler in order to listen

¹ Document reproduced above in this section.

² *Ibid.*

³ *Ibid.*

to a lecture on the Barbarossa operation. Did you report to the High Command of the Army and to Hitler and, if so, what was discussed on these occasions?

A. These meetings took place—I am not quite sure whether the dates were adhered to in the way they were provided here. The one on 27 March was a purely military discussion without Hitler's presence. The commanders of the army groups and armies announced their intentions to the Commander in Chief of the German Army, who was Field Marshal von Brauchitsch. That was a real discussion in a limited circle where opinions were exchanged. Right in the middle of this conference came the news of the *coup d'etat* in Belgrade, and the Commander in Chief of the German Army and General Halder left the conference room for an audience with Hitler. On 29 March all of us were ordered to appear in the Reich Chancellery. Hitler, on this occasion, gave us the reasons which would move him to a war against Russia. Those reasons were not particularly convincing at the time. They were considerably under the shadow—the whole address was considerably under the shadow—of the *coup d'etat* in Belgrade, and the resulting necessity for Germany to intervene. Other matters were also discussed concerning the conduct of war which we shall mention in another context. At that time, in view of that situation, I thought that a war with Russia in 1941 would be improbable because the Balkan affair had to be cleared up first and no one knew how long that would take.

Q. In accordance with Document C-78, Prosecution Exhibit 1245,* on 14 June 1941, a conference was to take place with Hitler concerning Barbarossa. According to the list of those present, you were supposed to attend the conference. Did it ever take place, and if so, were you present?

A. Yes, the conference took place. I attended it, and first of all we each individually told Hitler our intentions. He did not comment on our intentions very much, and thereafter all of us, together with Hitler, had lunch, and after lunch Hitler made a speech which lasted about an hour and a half. In this speech he elaborated on his reasons for the preventive war against Russia. I believe that on that occasion he also informed us of his discussion with Molotov, which had taken place in November of the previous year. This speech of Hitler was extremely impressive. It was so impressive, as a matter of fact, that General Hoepner who was later executed, and with whom I left the conference room, said as we were leaving the room, "Now, I am really convinced that war against Russia is necessary."

* Ibid.

Q. May I interpolate here? Why was General Hoepner executed later?

A. Because he participated in the attempt on Hitler's life on 20 July. By the way, in the documents there is an entry by the Chief of the Naval War Staff who had gained a similar impression of Hitler's speech at the conference. During that meeting Hitler ordered that on 22 June operations were to start against Russia. That settled the question.

Q. General, subsequent to Hitler's speech, if you had considered it correct to do so, would you have had an opportunity to voice any misgivings about the intention of attacking Russia?

A. That would have been quite impossible. First of all, it was a political problem which was involved, and then I was not at the top level of the military hierarchy. I was only on the fifth or sixth level.

Q. How many officers in your estimation participated in this conference?

A. It was a comparatively small circle, I believe, about 50 officers; that is, at the last mentioned conference, the one in June.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT REINHARDT*

DIRECT EXAMINATION

* * * * *

DR. FROHWEIN (counsel for defendant Reinhardt): I will now put to you Document R-95, Prosecution Exhibit 1188. It is a directive from the High Command of the Army for "Operation 25", as well as a supplemental directive for "Marita". The index to this document mentions your name. The prosecution deduces from this mention of your name that you did receive this document and thus participated in the preparation of aggressive war against Yugoslavia. What can you tell us about it?

DEFENDANT REINHARDT: I stated that at the end of March, the corps headquarters and the troops composing the corps received the order to transfer to East Prussia. The advance detachments for East Prussia were already en route when, as a complete surprise, at the end of March I received a new order to stop this movement of troops to East Prussia in order to commit them in the fight against Yugoslavia. I, myself, as far as it was possible,

* Complete testimony is recorded in mimeographed transcript, 5-7, 10 May 1948, pp. 3334-3639.

was to go in advance to Sofia. No airplane was available. Thus, I had to go by car. At that time I knew nothing about war or preparations for war against Yugoslavia, or about these deployment directives for Yugoslavia, because they were dated 30 March.

Q. Now, Witness, at what time were these deployment directives brought to your attention?

A. Only in Sofia.

Q. At what time were you actually committed?

A. In Sofia I was placed under the command of Panzer Group Kleist, which in turn was subordinate to Field Marshal List. In the western tip of Rumania I got new replacements, new troops. I only arrived in this area at the beginning of April 1941, and I had to execute my mission to advance with these troops to the north of the Danube in the direction of Belgrade.

Q. Until this time were you concerned in any preparatory work for the Yugoslavian campaign?

A. In no way whatever. I only learned about it in Sofia.

Q. Now, what was your commitment during the Yugoslav campaign?

A. On 9 April, beginning of the attack. On 12 April, penetration into Belgrade. A few days afterward, the corps headquarters and the corps troops were moved again.

Q. Where did you go after you had been moved from Yugoslavia?

A. To East Prussia.

Q. When did you arrive in East Prussia?

A. At the end of April 1941.

Q. Under whose command were you placed in East Prussia with your XLI Panzer Corps?

A. I was placed under the command of General Hoepner, who was in command of Panzer Group 4. He was my old commanding general from the Polish campaign. Panzer Group 4 was under Army Group North, Field Marshal von Leeb.

Q. At what time did your briefing in East Prussia take place?

A. As is evident from a document submitted to me, the date was 2 May 1941.

Q. I will now put to you Document NOKW-1168, Prosecution Exhibit 1222. It concerns the "Study Barbarossa". Is that the document which you just quoted in connection with the date of your briefing?

A. Yes.

Q. Will you please explain to the Tribunal why this document reveals the exact date of your briefing?

A. Under the entry for 2 May 1941 in this document we have a statement, "The Commander of the Panzer Group, General Hoepner, outlines the principal features of the "Study Barbarossa" to the commanding general, the chief of staff and the Ia officer".

Q. What deductions did you draw at the time from this briefing into the "Study Barbarossa" regarding the preparation of an aggressive war against Russia?

A. Here again I did not know the over-all political connections, but I assumed that this was a preparation for a war which might possibly come about, but which was not bound to arise.

Q. What steps did you take in turn after having been briefed into this "Study Barbarossa"?

A. By virtue of my briefing, I carried out preparatory work for my corps; that is, I started on my preparations and carried them out.

Q. In what manner did you carry out your tasks?

A. I myself wrote a combat directive for my divisions.

Q. I will show you now in this connection Document NOKW-2510, Prosecution Exhibit 1226.¹ Witness, is that the combat directive which you yourself issued to your subordinate units?

A. That is the combat directive, it bears my signature.

Q. What was the purpose of your issuing this combat directive?

A. This combat directive was to acquaint my divisional commanders with their tasks.

Q. I will now put to you Document NOKW-2567, Prosecution Exhibit 1233.² This is a corps order for the attack which was issued at Allenstein in East Prussia dated 19 May 1941.

Q. The signature on this document is your signature?

A. Yes, it is.

Q. And why was this order issued under the designation, "Fortress Staff Allenstein"?

A. "Fortress Staff Allenstein" was a code name for my staff.

Q. Why was this order issued by you on 19 May 1941?

A. I did not know the date at which we might have war, but I had to be ready. Therefore, my divisional commanders had to

¹ Document reproduced above in this section.

² Ibid.

know what missions I expected them to carry out, and they had to prepare themselves accordingly so that at any time we were ready to carry out the mission assigned to us.

Q. You just stated that you did not know that there would be war. Didn't you, in the light of these documents, have the conviction that there would be war?

A. No. I regarded these orders merely as being preparations for a possible case of war which I could not assume as certain. The position on the whole was so obscure to us that we did not know whether and if so, when there would be war.

Q. What was the view held by the units subordinate to you regarding an aggressive war—an impending aggressive war?

A. The general view was the same as I have just described. The political situation remained quite obscure to us, that is, whether there would be war at all.

Q. I will now put to you Document NOKW-2640, Prosecution Exhibit 700. What can you gather from this document regarding the view held by the troops concerning the impending aggressive war?

A. This document is the activity report of the Ic officer of the 6th Panzer division which was subordinate to me 1-9 June 1941. This document reads, "For the first time the regiments and the self-contained battalions will be issued with the records and data which have been prepared concerning Russia. This caused considerable surprise because rumors which had already been arrived at about a peaceful solution of the German claims against Russia were still circulating". That was the attitude of my troops even as late as the beginning of June 1941. If I myself had really been convinced that we were immediately at the threshold of an aggressive war, then in my eyes it would have been irresponsible, and I would have been failing in my duty if I had left my troops completely in the dark about the things which I had to demand from them within a few days.

* * * * *

CROSS-EXAMINATION

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MR. NIEDERMAN: Now, in the discussion of your campaign against Yugoslavia I want again to call your attention to the Halder diary which is still before you, to the entry for 28 March 1941. That again is NOKW-3140, Prosecution Exhibit 1359.* Can

* Ibid.

you explain to me the sense of that entry, "Temesvar, Reinhardt XLI Panzer Corps"?

A. This entry under 28 March 1941, says that my XLI Panzer Corps, was to be committed at Temesvar in addition to the other troops which were made subordinate to me subsequently.

Q. Well, that is the sense I gathered from it too.

A. Now, in conjunction with this I may perhaps state that General Halder has already testified here that my corps headquarters was subsequently destined, in addition to the other troops, to carry out the attack.

Q. You did, in fact, launch your attack into Yugoslavia from Temesvar, didn't you?

A. Yes.

Q. So that on 28 March, at any rate, it had been fully determined that that was what was to happen. Now, I would like to talk to you about your attack against Russia. Shortly after that attack you recall you took the town of Tauroggen, spelled T-a-u-r-o-g-g-e-n?

A. Yes.

Q. You also recall that in your briefing of 2 May 1941, about which you testified yesterday, one of your objectives was the town of Tauroggen?

A. On 2 May 1941, as far as I recall—I think it must be in a document—I received the briefing for my mission through the Panzer Group Hoepner.

Q. And do you recall that the seizure of this town of Tauroggen was one of your first objectives?

A. Yes.

Q. So that the actual attack, therefore, was in fact a culmination of the planning which was started, at least, on 2 May 1941?

A. In the directive received by the Panzer Corps on 2 May 1941, the mission was designated. My mission was to prepare the commitment within the scope of the Panzer Group Hoepner, with my objective the capture of Tauroggen.

Q. You will recall that you testified concerning NOKW-2510, that is Prosecution Exhibit 1226.* I want to show you that document again. This is the document about which you testified yesterday as being signed by you, issued on 11 May 1941 and consisting of combat directives for the Russian invasion. Do you recall that?

* Document reproduced above in this section.

A. Yes.

Q. And you further testified that they were combat directives issued by you to acquaint your divisional commanders with their tasks in the impending engagement?

A. Yes.

Q. At that time you already considered war against Russia as inevitable, did you not?

A. I expressly stated: No, I didn't. I stated that I carried out preparatory work in accordance with the mission which I had received for a war against Russia, which might come about but which was not bound to happen. It was a preparation, without any knowledge as to whether there would be war with Russia. But a preparatory task, as seen from the military point of view, probably occurs frequently and is not always carried out.

Q. But then in the first sentence of this order you say, "The war against Russia is the inevitable result of the struggle for survival forced upon us." What do you mean by that?

A. If a war with Russia was to come, a contingency which I could not foresee, then this sentence had validity. The first sentence then states, "the stake for which we have to fight, and the troops or the commanding officers have to be aligned in this direction".

Q. You will notice further in the first paragraph, again you discuss the old fight of the Germanic race against the Slavs, the defense of European culture, and the thrusting back of Jewish bolshevism. That sounds very much, does it not, the same sort of order that the Nazis, that the National Socialists would issue?

A. I have not heard a question yet.

Q. I repeat my question. That is the same sort of order, is it not, that the National Socialists were issuing concerning Russia in this and later periods of time?

A. This wording is a verbatim reproduction from an order which we received from top level. It states explicitly under the last paragraph quotation in brackets "Excerpt from enclosure 2 of commander of Panzer Group 4," etc. Now, you only add such a thing in exceptional cases. That was done by the leading official whenever he wanted to explain that he did not identify himself with the wording, but was compelled to transmit it, in order to show that he was not the author of the wording.

Q. And, therefore, you felt compelled, did you not, to pass on all orders from higher levels whether you identified yourself with

such orders or not? Is that question clear? Perhaps I can make it a little clearer for you. You would pass on all orders from higher levels whether you agreed with them or not, wouldn't you?

A. No. Here I expressly transmitted the wording which was not my own, and in brackets I stated the source; but whatever had been ordered from top level, as in this case, concerning the fighting had to be transmitted.

Q. In the second paragraph I notice you state, "The fight must be conducted with utter ruthlessness. The complete merciless annihilation of the enemy must be the inflexible purpose. In particular no mercy must be shown to the followers of the present Russian-Bolshevist system." Did you define in your mind commissars as the follower of the present Russian-Bolshevist system?

A. First of all the task of the armed forces in wartime is to annihilate their enemy. In the second place, whether in dealing with this combat directive at the beginning of May 1941, I already knew of the existence of commissars, I don't know. I cannot tell you. At any rate, the Commissar Order did not play a part at that time. I only received it at the beginning of June.

Q. In any event, it was not abhorrent to you personally, was it, that whoever they might be, that the representatives of the Russian-Bolshevist system should be shown no mercy?

A. If he appeared as the enemy—we didn't know definitely in what form he would show himself—then certainly.

* * * * *

VII. WAR CRIMES AND CRIMES AGAINST HUMANITY—SELECTIONS FROM THE EVIDENCE

A. The Commissar Order

I. INTRODUCTION

The prosecution alleged that the defendants Warlimont and Lehmann had participated in the formulation of the Commissar Order. In paragraph 2 below, the Commissar Order (Document NOKW-484) and a number of other contemporaneous documents dated before the actual issuance of the order are followed by testimony of the defendants Warlimont and Lehmann. In paragraph 3, contemporaneous documents concerning the execution of the order are followed by testimony of the defendants von Leeb, Reinhardt, and Hoth.

The Commissar Order was issued and distributed several weeks before the invasion of Soviet Russia. Related documents dealing with the plans for the invasion are reproduced in section VI D 3 b.

2. FORMULATION AND DISTRIBUTION

PARTIAL TRANSLATION OF DOCUMENT NOKW-484 PROSECUTION EXHIBIT 56

LETTER SIGNED BY DEFENDANT WARLIMONT TRANSMITTING THE COMMISSAR ORDER, "DIRECTIVES FOR THE TREATMENT OF POLITICAL COMMISSARS" TO MILITARY LEADERS, 6 JUNE 1941

[stamp] Top Secret

High Command of the Armed Forces
Armed Forces Operations Staff/Department National Defense
(IV/Qu)

No. 44822/41 Top Secret

[Stamp]

Top Secret

Through officer only

Fuehrer Headquarters, 6 June 1941
20 copies—10th copy

In pursuance to the Fuehrer decree [*C-50, Pros. Ex. 594*]* of 14 May, concerning the execution of military jurisdiction in the "Barbarossa" area (High Command of the Armed Forces, Armed

* Document reproduced in section B 1 b, below.

Forces Operations Staff, Dept. National Defense (IV/Qu) No. 44718/41 Top Secret Matter for Chiefs), find herewith enclosed "Directives for the Treatment of Political Commissars."*

It is requested to restrict distribution only to the commanders in chief of the armies and air fleet chiefs and to inform the other commanding generals and commanders by word of mouth.

The Chief of the High Command of the Armed Forces

BY ORDER:

[Signed] WARLIMONT

Distribution:

Commander in Chief of the Army, Operations Section, 1st copy
Generalquartiermeister, 2d copy
General for Special Missions, attached to the Commander in Chief of the Army, 3d-4th copies
High Command of the Air Force, Air Force Operations Staff, 5th copy
Generalquartiermeister, 6th copy
High Command of the Navy/Naval War Staff, 7th copy
High Command of the Armed Forces, Armed Forces Operations Staff, 8th copy
National Defense, 9th copy
National Defense IV, 10th copy
Armed Forces Legal Dept., 11th copy
Armed Forces Propaganda, 12th copy
Office Foreign Counterintelligence, 13th copy
Counterintelligence III, 14th copy
Extra copies, 15-20th copies

[Handwritten]

Armed Forces Commander "Ostland", 15th copy
Special Missions Staff Frankfurt/Oder, 16th copy
Special Mission Staff Breslau, 17th copy
Special Missions Staff Vienna, 18th copy
Armed Forces Commander Norway, 19th copy

PARTIAL TRANSLATION OF DOCUMENT NOKW-1076
PROSECUTION EXHIBIT 57

THE COMMISSAR ORDER WITH DISTRIBUTION LIST, AND COVERING
LETTER BY GENERAL VON BRAUCHITSCH, COMMANDER IN
CHIEF OF THE ARMY, 8 JUNE 1941, CONTAINING
SUPPLEMENTS TO THE ORDER

[Stamp] Top Secret

* See Document NOKW-1076, Pros. Ex. 57, immediately following.

Commander in Chief of the Army
File No.: General for Special Missions attached to CinC Army
No. 91/41 Top Secret Matter for Chiefs

2047/138

[Stamp]

Matter for Chiefs
Through officer only
As per enclosed distribution list

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Subject: Treatment of political commissars

[Stamp]

General Staff of the Army
Section: Foreign Armies East
9 June 1941
No. 69/41 Top Secret Enclosure

Headquarters, High Command of the Army, 8 June 1941

The following decree issued by the High Command of the Armed Forces on 6 June 1941—Armed Forces Operations Staff Department National Defense (IV/Qu) No. 44822/41 Top Secret, Matter for Chiefs—is announced herewith:

Supplements

To I, Number 1—Action taken against a political commissar must be based on the fact that the person in question has shown by a special, recognizable act or attitude that he opposes or will in future oppose the armed forces.

To I, Number 2—Political commissars attached to the troops should be segregated and dealt with *by order of an officer*, inconspicuously and *outside the battle zone proper*.

[Signed] VON BRAUCHITSCH

Certified:

Signed: BECHLER

Captain

[Stamp]

Army High Command
Group: Legal Affairs

Enclosure to High Command of the Armed Forces/Department
National Defense
IV/Q No. 44822/41 Top Secret
Matter for Chiefs.

Directives for the treatment of Political Commissars

When fighting bolshevism one can *not* count on the enemy acting in accordance with the principles of humanity or international law. In particular it must be expected that the treatment of our prisoners by the *political commissars of all types* who are the true pillars of resistance, will be cruel, inhuman, and dictated by hate.

The troops must realize—

1. That in this fight it is wrong to treat such elements with clemency and consideration in accordance with international law. They are a menace to our own safety and to the rapid pacification of the conquered territories.

2. That the originators of the Asiatic barbaric methods of fighting are the political commissars. They must be dealt with *promptly* and with the utmost severity.

Therefore, if captured *during combat or while offering resistance* they must, on principle, be shot immediately.

For the rest, the following instructions will apply:

I. Theater of operations.

1. Political commissars who *oppose our troops* will be dealt with in accordance with the "Decree on the Execution of Jurisdiction in the Barbarossa Area." This applies to commissars of every type and position, even if they are only suspected of resistance, sabotage, or instigation thereto.

Reference is made to "Directives for the Conduct of the Troops in Russia."

2. Political commissars *in their capacity as officials attached to the enemy troops* are recognizable by their special insignia—red star with inwoven gold hammer and sickle on the sleeves—for details see, "The Armed Forces of the U.S.S.R., in War," High Command of the Army, General Staff of the Army, Oberquartiermeister IV, Section Foreign Armies East (II), No. 100/41, Secret, of 15 January 1941, encl. 9 *d*). They are to be segregated *at once*, i.e., while still on the battlefield, from the prisoners of war. This is necessary in order to deprive them of any possibility of influencing the captured soldiers. These commissars *will not be recognized as soldiers*; the protection granted to prisoners of war in accordance with international law will not apply to them. After having been segregated they are to be liquidated.

3. *Political commissars who are not guilty of any hostile acts or are not suspected of such* will remain unmolested for the time being. Only in the course of a deeper penetration into the country will it be possible to decide whether officials who remained in their

positions can be left where they are, or should be handed over to the "Sonderkommandos". The latter should preferably scrutinize these cases themselves.

As a matter of principle, when deliberating the question of "guilty or not guilty", the personal impression received of the commissar's outlook and attitude should be considered of greater importance than the facts of the case for which there may not be proof.

4. In cases 1 and 2 a brief report (report form) on the incident is to be submitted:

a. By units subordinated to a division to the division (Ic).

b. By units directly subordinate to a corps headquarters, and army command or army group command, or Panzer group, to the corps headquarters, etc., (Ic).

5. All measures enumerated above must not delay the progress of operations. Combat troops must, therefore, refrain from organized search and mopping up operations.

II. *In the rear area of the army group.*—Commissars seized in the rear area of the army group on account of doubtful behavior are to be handed over to the Einsatzgruppe or the Einsatzkommandos of the Security Police (Security Service).

III. *Limitation of the courts martial and summary courts martial.*—The courts martial and summary courts martial of regimental commanders etc., must not be charged with the execution of the measures indicated under I and II.

Top Secret

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PARTIAL TRANSLATION OF DOCUMENT 877-PS
PROSECUTION EXHIBIT 53

LETTER FROM HIGH COMMAND OF THE ARMY TO HIGH COM-
MAND OF THE ARMED FORCES, ATTENTION OF DEFENDANT
WARLIMONT, 6 MAY 1941, TRANSMITTING DRAFTS OF
BARBAROSSA AND COMMISSAR ORDERS

Headquarters, High Command of the Army, 6 May 1941

High Command of the Army,
General for Special Missions with Commander in Chief of the
Army
File No. General for Special Missions with Commander in Chief
No. 75/41 Top Secret, Matter for Chiefs

[Stamp]

Top Secret Matter for Chiefs
Through officer only
OKW/Armed Forces Operations Staff/
Department National Defense
7 May 1941

No. 44665/41 Top Secret, Chiefs

To Chief of OKW [High Command of the Armed Forces]
Attention: General Warlimont or his official deputy

Subject: Treatment of enemy aliens.
2 enclosures

Enclosed please find the following for your information and
co-examination *as soon as possible*:

1. Draft of a decree by the Commander in Chief of the Army,*

* Draft of the Barbarossa Jurisdiction Order (877-PS, Pros. Ex. 53) is reproduced below in
section B 1 b.

2. Draft of directives for the coordinated execution of the mission of 31 March 1941 [1471-PS, Pros. Ex. 54].¹

It is intended to distribute the decree by the Commander in Chief of the Army down to the judicial authorities.

The "Directives" are to be disseminated independent of it, merely to the commanders in chief of the army groups and of the armies for the *oral* information of their subordinate commanders and commanding officers.

BY ORDER:

[Signed] MUELLER²

[Handwritten]

To 1.—After contact with High Command of the Navy and High Command of the Air Force, Armed Forces Legal Department will prepare new draft. It also is to be examined. Armed Forces Legal Department is informed in regard to the expediting, as ordered.

To 2.—It should also be considered whether a *written* decree of this kind is *required*. To be resubmitted during report to chief OKW together with 1. Own suggestions?

[Initial] W [WARLIMONT]

7 May

* * * * *

PARTIAL TRANSLATION OF DOCUMENT 1471-PS
PROSECUTION EXHIBIT 54

DRAFT OF COMMISSAR ORDER, UNDATED, PREPARED ACCORDING
TO DIRECTIVES OF 31 MARCH 1941, AND COMMENT
BY DEFENDANT LEHMANN, 8 MAY 1941³

* * * * *

Enclosure

[Stamp] Top Secret
Matter for Chiefs
Through officer only

Directives concerning treatment of political functionaries, etc., for the coordinated execution of the mission already given on 31 March 1941.

¹ Document immediately following.

² General for Special Missions with the High Command of the Army.

³ This document was identified by defendant Warlimont as enclosure 2, to Document 877-PS, Pros. Ex. 53 (Commissar Order), reproduced above in this section. See testimony of defendant Warlimont below, in this section.

I. *In the army area.*—*Political functionaries and leaders* (commissars), in view of the present combat situation constitute an increased danger to the security of the troops and to the pacification of the conquered country, because their hitherto insidious and undermining agitation has clearly and distinctly proven that they reject any European culture, civilization, constitution and order. Therefore, they must be removed.

Insofar as they are captured by the troops or brought to them in any other way, they must be brought before an officer who has disciplinary power. The latter, after consulting two more soldiers (with the rank of an officer or noncommissioned officer) must determine that the person captured or brought to him is a political functionary or leader (commissar). If the political character is sufficiently proved, the officer must immediately order the shooting and have it carried out at once.

The *political leaders (commissars) attached to the troops* belong to the political functionaries. Their immediate discovery and segregation from the prisoners is of special importance, for, above all, as prisoners in the homeland, they are able to continue their propaganda. If possible they must be liquidated in prisoner collecting points, at the latest in the PW transient camps. They can be identified by a red star with inwoven gold hammer and sickle worn on their sleeves (for details see, "The Armed Forces of the U.S.S.R., in War", High Command of the Army, General Staff of the Army, Oberquartiermeister IV, Section Foreign Armies East (II), No. 100/41, Secret, of 15 January 1941, encl. 9 d). *They are not recognized as soldiers.* The regulations valid for prisoners of war do not apply to them.

To this category belong, furthermore, the commissars in the administration and the party as well as other political personages of importance encountered by the troops.

Technical chiefs of business and technical firms are only to be seized if *in individual cases* they resist the German Armed Forces.

The evacuation of seized political functionaries and commissars to the rear is prohibited.

A brief report (report slip) on the incident is to be submitted—

a. By units subordinate to a division, to the division (Ic).

b. By units directly subordinate to a corps headquarters, army command or army group command or Panzer group, to the corps headquarters, etc., (Ic).

All measures enumerated above must not delay the progress of operations. Troops must, therefore, refrain from organized search and mopping up operations.

II. *In the rear area of the army group.*—Functionaries and commissars seized in the rear area of the army group because of their previous political activity, are to be turned over to the Einsatzgruppen or Einsatzkommandos of the Security Police (SD), with the exception of the political leaders attached to the troops.

III. *Limitation of the courts martial and summary courts martial.*—In the cases mentioned under Nos. I and II, the jurisdiction of the courts martial and summary courts martial of the regimental commanders etc. ([Article] 13a Wartime Rules of Court Martial Procedure) is cancelled.*

8 May 1941

[Initial] W [WARLIMONT]

9 May

Chief of the Armed Forces Legal Division

to

Chief of National Defense

Subject: Today's telephone conversation between General Warlimont and the undersigned

Proposed Version for No. III

The courts martial and the summary courts martial of regimental commanders etc., must not be charged with the execution of the measures indicated under I and II.

[Signed] DR. LEHMANN

[Stamp]

IV

Qu I

Qu 2

Qu 3

Administration

* * *

TRANSLATION OF DOCUMENT 884-PS
PROSECUTION EXHIBIT 55

MEMORANDUM SIGNED BY DEFENDANT WARLIMONT, 12 MAY 1941,
CONCERNING DRAFT OF COMMISSAR ORDER

Top Secret

Department National Defense
(IV/Qu)

* On original document this paragraph is crossed out and joined with "Proposed Version for No. III" by hand-drawn arrow.

Matter for Chiefs Through Officers only

[Initial] K [KEITEL]

13 May

[Handwritten] Must be submitted to the Fuehrer again.

[Initial] J [JODL]

13 May

Subject: Treatment of captured Russian political and military
functionaries

Fuehrer Headquarters, 12 May 1941

Encl. 1

Notes for Oral Report

I. The Army High Command has submitted a draft of "*Directives concerning treatment of political functionaries etc., for the coordinated execution of the mission of 31 March 1941.*" The draft is enclosed as enclosure 1. It provides—

1. Political functionaries and leaders (commissars) are to be removed [zu beseitigen].

2. Insofar as they have been captured by troops, an officer with disciplinary power shall have a final decision as to whether the prisoner in question is to be removed or not. It is sufficient to determine whether the prisoner is a political functionary.

3. Political leaders attached to the troops shall not be recognized as PW's and shall be liquidated [erledigen] at the latest in the PW transient camps. No evacuation to the rear.

4. Technical chiefs of business and technical firms are only to be seized if they offer resistance to the German Armed Forces.

5. The carrying out of military operations must not be hindered by these measures. Organized search and mopping up operations are prohibited.

6. In the rear area of the army group, functionaries and commissars, with the exception of political leaders among the troops, shall be turned over to the Einsatzkommandos of the Security Police.

II. On the other hand, memorandum No. 3 of Reich Leader Rosenberg provides that only high and highest functionaries shall be liquidated, since state, communal, and economic functionaries are indispensable for the administration of the occupied territory.

III. Therefore a decision by the Fuehrer as to which principles shall apply is necessary.

Proposal of National Defense for case II

1. Functionaries who oppose our troops, which is to be expected of the radical elements, fall under the provisions of the "Decree on the Execution of Military Jurisdiction in the Barbarossa area". They shall be liquidated as *franc-tireurs*. A similar treatment is stipulated in the "Directives for the Behavior of the Troops in Russia". (Enclosure 2.)

2. Functionaries not guilty of hostile acts will remain unmo-
lested for the time being. It can hardly be expected that troops
should be able to distinguish the various ranks in the individual
sectors. Only after further penetration of the country will it
be possible to decide whether the remaining functionaries may be
left in their present locations or whether they will have to be
turned over to the Sonderkommandos insofar as the latter are not
in a position to effect the screening.

3. Functionaries attached to the troops will be treated accord-
ing to the proposals made by the Army High Command. They will
not be recognized as prisoners and will be liquidated at the latest
in the PW transient camps; under no circumstances will they be
evacuated to the rear.

[Signed] WARLIMONT

[Handwritten] We must count on reprisals against German air-
men. Therefore, the whole operation is best represented as a
reprisal action. [Initial] J [Jodl]

Distribution:

Chief, Armed Forces Operations Staff
Chief, National Defense
National Defense IV
War Diary

For information:

Armed Forces Legal Department

DOCUMENT 2884-PS
PROSECUTION EXHIBIT 113

AFFIDAVIT OF WALTER WARLIMONT, 14 NOVEMBER 1945,
CONCERNING THE TREATMENT OF SOVIET POLITICAL
FUNCTIONARIES AND COMMISSARS

Nuernberg, Germany

I, Walter Warlimont being duly sworn, depose, and state:

My last position with the German Armed Forces was Deputy Chief of Staff of the Armed Forces Operations Staff.

I am only partly familiar with the policy followed by the German Government toward political functionaries and commissars of the Soviet Army during the course of the German campaign against the U.S.S.R. Shortly before the beginning of this campaign I was present in a group composed of the commanders in chief (with their chiefs of staff) of the three branches of the armed forces, of the army groups, of armies, and of the corresponding groups in the air force and navy. Hitler made an announcement to this group that special measures would have to be taken against political functionaries and commissars of the Soviet Army. He said that this would not be an ordinary campaign but would be the clash of conflicting ideologies. He further said that the political functionaries and commissars were not to be considered as prisoners of war but were to be segregated from other prisoners immediately after their capture, and were to be turned over to special detachments of the Security Service which were to accompany the German troops to Russia. He further said that when it was not possible to turn over the political functionaries and commissars to the Security Service, they were to be eliminated by the German troops. He further said that Russia was not a signatory of the Geneva Convention, and that intelligence had been received that the Russians would not treat German prisoners of war in the usual way, especially the members of the SS and the police. He further said that he did not expect the officers corps to understand his orders, but he demanded that they obey his orders unconditionally.

I recognize a document entitled, "Directives concerning Treatment of Political Functionaries, etc., for the coordinated Execution of the Mission of 31 March 1941" which is an excerpt from a proposed directive drafted by the High Command of the Army and dated 12 May 1941 [Sic] (884-PS) [*Pros. Ex. 55 and 1471-PS, Pros. Ex. 53*].* That document is a true and accurate statement of the proposals made by the High Command of the Army with respect to political and military Soviet functionaries and commissars captured with Soviet troops. That document states that political and military functionaries and commissars among the Soviet prisoners of war are to be eliminated. That document bears my initials, indicating that it had been sent to my division in the OKW and had been seen by me before submission to General Jodl, my immediate superior. I added to the document parts II and III before submitting it to General Jodl. In addition, on my own initiative, I sent a copy of the document to the OKW Legal Department

* Documents appear immediately above.

for information, expecting that department to examine the entire question and to render an opinion thereon to the chief of the OKW.

In 1943, General Zeitzler, Chief of the Army General Staff, pressed the argument several times that particular action against political functionaries and commissars among Soviet prisoners of war had to be stopped. The reason for his position in the matter was that he was trying to get as many soldiers of the Red Army as possible to desert to the German lines. The existence of a particular policy against these political functionaries and military commissars seriously interfered with this program, since these political functionaries and commissars exhorted the soldiers to fight to the last man rather than surrender to the Germans.

[Signed] WALTER WARLIMONT

EXTRACTS FROM THE TESTIMONY OF DEFENDANT WARLIMONT*

DIRECT EXAMINATION

* * * * *

DR. LEVERKUEHN (counsel for defendant Warlimont): How did the so-called Commissar Order originally come about, and how was it issued?

DEFENDANT WARLIMONT: Hitler announced the Commissar Order on 30 March 1941, orally. On that day he called the Commanders in Chief of the Army, Navy, and Air Force together, in addition the commanders of army groups and armies, also, the commanders of the same rank in the navy and air force. Most of them appeared with their chiefs of staff at the Reich Chancellery. In addition a number of office chiefs and section chiefs of the four commands were also present. I was among the latter group. Hitler entered the room in his usual manner; briefly greeted us by raising his right hand and then started on his address. About the subject matter which is at issue here, he made approximately the following statement on that day: Commissars and GPU members are not soldiers but criminals. They have to be treated as such. He had to demand that the officers of the German Armed Forces relegate their misgivings against such treatment into the background. Above all, these people could under no circumstances be treated as prisoners of war should they fall into German hands. Instead, after their capture they were to be segregated immediately and turned over to the Sonderkommandos of the Security Service [SD]. These Sonderkommandos were to accompany the

* Complete testimony is recorded in mimeographed transcript, 21-25, 28-30 June, 1, 2 July 1948; pp. 6312-7103.

German troops into Russia. Where such treatment was not possible in individual instances, these commissars were to be liquidated by the troops themselves. I believe "liquidation" was the term he used. He added as a kind of a reason for his order that indications were available from the intelligence service that the Russians would not treat the German prisoners of war according to the provisions of the Geneva Convention, particularly those prisoners who were members of the SS and Police [units]. In addition, when Hitler gave his reason, he added that commissars had committed incredible atrocities in the course of the occupation of the Baltic States, also in Finland.

That, approximately, was the substance of his statements concerning this particular topic. These statements were made with great emphasis and none of the listeners could harbor the slightest doubt that this was a well-thought out and very strict order.

Q. Did Hitler's opinion and description of the treatment of political functionaries by the Russians and by the Germans lead one to think that both these powers were of the opinion that such political functionaries were in actual fact not soldiers?

A. At any rate I understood Hitler at the time to mean this, and this was also consistent with the usual opinion prevailing in the German Armed Forces, namely, that the political commissars with the Russian troops were not soldiers but politicians. As a consequence, I understood his order to the effect that such people were to be treated as political prisoners and to be turned over to the political police; that is, to the Security Service.

Q. Did you or your department take any steps, by virtue of this oral order of Hitler's?

A. No, nothing.

EXAMINATION

JUDGE HARDING: I would like to ask a question, if I may. General, what did you understand would happen to these people that were turned over to the Security Service?

DEFENDANT WARLIMONT: I assumed that as political prisoners, as internees so to speak, they were to be turned over to the Security Service and that they were treated there as prisoners.

Q. Well, why did you understand that the German Army was to liquidate those that were not turned over?

A. I thought the explanation was that Hitler was very anxious about the fact that these people might even for a temporary period be operating in the rear of the German troops, particularly in prisoner of war camps. He didn't want them to be kept in such

camps because in Hitler's opinion they might operate there as agitators and instigators, and be an immediate danger to the troops.

Q. But you understood that the German Army was to take these men out and liquidate them; but, if they didn't do that, as I understand your testimony, then you understood they were to be turned over to the Security Service and kept as prisoners.

A. It's the other way around, Your Honor. In all those instances where the Security Service was close enough to the front to take over these people immediately, the Security Service was to deal with them. But where, in view of the vastness of the territory and the small number of the Security Service people, there was no possibility for the Security Service to be close enough to deal with these people, they were to be liquidated. That is how I understood it.

Q. Now, when they were turned over to the Security Service, you say they were to be segregated by the Security Service, as you understood; but according to your statements you said by no means were these people to be held as prisoners of war. Now, how would the Security Service dispose of them if they couldn't turn them over to the prisoner of war camps? They obviously had no prisons of their own; now, what was to become of them?

A. I could conceive perhaps that they were taken to the nearest prisons in the vicinity to be screened. But I really can't say to what extent I pondered the possibilities at the time.

Q. What prisons — they wouldn't be taken to the ordinary prisons of the Reich would they, or what prisons could they be taken to?

A. First of all, perhaps into prisons in the occupied areas or they might be accommodated in other suitable buildings belonging to the Security Service in the occupied eastern territories.

Q. Well, you didn't consider or believe that the Security Service had some camps where they would continue to take care of these people, I would understand?

A. I did not think that the Security Service would keep them for any length of time in the occupied territory under Security Service supervision. I thought that in the same way as other political prisoners and internees they were to be transported into the Reich at a later time, into internment camps within the Reich.

Q. All right.

PRESIDING JUDGE YOUNG: Just one question. This Document 1471-PS, Prosecution Exhibit 54,* "Directives concerning the

* Document reproduced above in this section.

Treatment of Political Functionaries in the Army Area", it says here in paragraph 3, "If possible, they must be liquidated in prisoner collecting points, at the latest in the PW transient camps". There wasn't any question from this directive but that they were to be liquidated either at the front by the armed forces or somewhere else, was there?

DEFENDANT WARLIMONT: I didn't know these provisions at the time, Your Honor. We were talking about my impressions of the address which Hitler held 31 March.

Q. What do you understand by "liquidated"?

A. Killed.

Q. That is all.

* * * * *

REDIRECT EXAMINATION

DR. LEVERKUEHN: What agency dealt with the question of commissars immediately after Hitler's speech?

DEFENDANT WARLIMONT: I know now—I didn't know then—from Halder's diary the Commander in Chief of the German Army, in the period between 30 March which is the day of Hitler's address and the beginning of May 1941, had several conferences with Hitler about this subject matter.

Q. What was the first indication you received concerning this subject after Hitler's speech?

A. The first indication which was rendered to me was a communication from the High Command of the Army, which is contained partially in Document 877-PS, Prosecution Exhibit 53. This is a communication from the General for Special Missions with the High Command of the Army, addressed to the chief of the OKW, for my attention, and it is dated 6 May 1941. It consists of a cover letter which states, and I quote, "Enclosed please find the following for your information, and co-examination as soon as possible," and then there are listed (1) draft of a decree by the Commander in Chief of the Army; (2) draft of directives for the coordinated execution of the mission already given on 31 March 1941." The date is incorrect. It should read, "30 March." The first draft is enclosed with this document. This is the basis of what has been discussed earlier about jurisdiction. It is not of importance for the discussion we are having at this moment. The second draft is not attached to the document, and that was a draft drawn up by the German Army for the so-called "Commissar Order".

MR. RAPP: I wonder if the court would permit me, merely as a matter for the record, to state that I am under the impression that the witness in saying that the date of 31 March is wrong, merely meant that it was wrong in the original as sent by General Mueller, but not wrong in the document book. I would like to have that brought out to avoid confusion, please.

PRESIDING JUDGE YOUNG: If that is correct—that is what you meant by it? Then the record will indicate it from this colloquy.

DEFENDANT WARLIMONT: In this cover letter it is also stated, and this seems to me important, that the first decree is to be distributed down as far as the judicial authorities, i.e., down to divisional level, whereas the second decree which contains the Commissar Order is to be distributed merely to the commanders of the army groups and armies, that is, to the top levels only.

DR. LEVERKUEHN: Document 877-PS, Prosecution Exhibit 53 then is incomplete in as much as the second enclosure is missing?

A. Yes, that is right.

Q. Can you find the second enclosure at any other place?

A. Yes. This enclosure can be found in Document 1471-PS, Prosecution Exhibit 54 from page 6 of the original onward. This is the draft which the High Command of the Army at the time sent to the OKW for informational purposes and for co-examination. It deals with the execution of Hitler's orders with respect to commissars.

Q. His Honor has just asked you about a sentence contained in Exhibit 54. This document is only a draft, as you say?

A. Yes. It is a draft which was compiled by the Army [OKH].

* * * * *

Q. And from where do you derive your statement, that this was compiled by the Army? Perhaps you would like to have a look at the last page?

A. It is evident from the last page that I sent this draft to the Armed Forces Legal Department, and that on 9 May it was returned to me with a notation made by the Legal Department.

Q. Does that mean that you wanted to leave the further dealing with this matter to the Armed Forces Legal Department?

A. I made the attempt to do this. I was in a very difficult situation at the time. Not only did I think that these orders of Hitler were most unsuitable, but of course, I also thought that they were extremely dangerous. It was my opinion that it wasn't my duty

further to concern myself with them. Therefore, I tried to get rid of the whole problem in this way.

Q. And why didn't you succeed in freeing yourself of the responsibility for this problem? Wasn't the Armed Forces Legal Department willing to deal further with the matter?

A. This department was not allowed to do so. On the last page of the Document 1471-PS it is shown that I had a telephone conversation with Dr. Lehmann about this problem and that he told me that Keitel had forbidden him to concern himself with these questions since it was none of his business. He said he regretted not to be able to help me and further limited himself to rephrasing paragraph III. In this paragraph III it had been expressed, in the draft compiled by the German Army, that military courts and courts martial were not to concern themselves with these questions.

Q. What would have been your duty in the ordinary course of events if you had received such a communication from the Commander in Chief of the German Army for your attention but addressed to the Chief of the OKW?

A. It would have been my one and only task, and this would have been the most simple thing for me to do, if I had not thrown another glance at the document, but had passed it on to Keitel, it was only addressed "for my attention" because the registry office was in my department.

Q. Now, what steps did you actually take?

A. I tried to oppose this development. My first reaction resulted in the marginal notation which I added to the communication of the High Command of the Army. About this point two, the draft of the Commissar Order submitted by the army, this marginal note reads as follows, I quote, "Concerning two, it remains to be considered whether a written decree of this type is necessary. To be submitted again for oral report with the Chief of the OKW. Own suggestion." First of all, I wanted to have examined whether a written version of this Hitler order could not perhaps be circumvented. Such a circumvention promised to me the possibility of regarding this order as an order only, and thus it did not have to become known to anybody except those who had listened to its oral announcement. I hoped that thus it would fall into oblivion before it could ever be executed.

Q. Apart from this instruction suggested to your own staff, did you take any other steps?

A. Yes, I did. I got in touch with the Generalquartiermeister of the German Army, General Wagner, who was a friend of mine.

I asked him why the High Command of the Army had submitted such a draft at all, and at the same time I most urgently suggested a withdrawal of the draft so that it should disappear from the correspondence. Wagner, however, told me that this was impossible. The Commander in Chief of the German Army, according to his conversations with Hitler, was of the opinion that a written order would have to be submitted. If he did not do that, Hitler would insist, as he stated in his address, on the Security Service being committed right up into the combat zone, in order to perform its task there, that is, the taking over of the commissars who had been captured. If, however, the Security Service was to be sent as far forward as the combat zone, the German Army would lose all control over such procedures and would instead be controlled in turn by the Security Service. He, Wagner, had himself been negotiating with Heydrich concerning the commitment of the Security Service in the East, and only with great efforts had he succeeded in preventing this development.

Q. And did Wagner inform you of any other steps intended by the German Army to restrict the possible effects and consequences of the Commissar Order?

A. Yes, he did. He pointed out to me that the first draft which was attached to this communication of the German Army, dated 6 May, was intended as a counter measure to the so-called Commissar Order. The first draft here in Prosecution Exhibit 53, contains in substance what was later contained in the so-called Disciplinary Order issued by the Commander in Chief of the German Army. This order would have to be distributed down to the lowest level, as the cover letter states. All excesses by the troops were forbidden in this order. Among such excesses the Commander in Chief of the German Army wanted it to be understood that the shooting of Commissars was included; and he would see to it that this order of his would be announced orally in all echelons with proper comments and explanations. In other words, the Commissar Order was not intended to be executed, but the Commander in Chief of the German Army thought it was necessary to put it on paper in order thus to avoid greater dangers. Through the other order he said he intended simultaneously to revoke the Commissar Order. That is how Wagner described the situation to me.

Q. Did your staff make any efforts to gain further information about this matter?

A. Yes. I had instructed one of my officers to gather information on his level, and he gave me the same information.

Q. About this issue, we shall submit an affidavit by General Mueller as Document Warlimont 37, Warlimont Exhibit 39.* What happened on the part of your staff by virtue of your notation, "own suggestion"?

A. The man who dealt with the matter in my staff pointed out to me that a memorandum had been received through the Chief of the OKW—a memorandum from Rosenberg. This memorandum dealt with the manner in which civilian political commissars in Russia were to be treated after the German occupation. This memorandum contained far more lenient provisions than those ordered by Hitler in his address on 30 March. Hitler's instructions did not only refer to those political commissars who were with the troops but to all political functionaries generally. Therefore, this included functionaries in the administration, in economy, and wherever else they might have been assigned. Rosenberg's memorandum dealt with these. I immediately took up this suggestion because the idea emanated from a high functionary of the National Socialist Party, namely, Rosenberg. He was certainly a person who would not be suspected in any way by Hitler, and, therefore, I could use his ideas for my own further purposes, and this I did.

Q. Will you now please turn to Document 884-PS, Prosecution Exhibit 55, which I have also put to you? Therein you will find a note for an oral report which was signed by you. On the first page of this note for an oral report there is a marginal note in handwriting, "Must be submitted to the Fuehrer again".

* * * * *

This is the note for an oral report which you drew up for Jodl, is that right?

A. Yes, after all the events which I have described so far, I saw no other possibility of withholding this communication. Therefore I had to pass it on. However, I did not pass it on to Keitel as is shown in the address, but I passed it on through official channels to Jodl. In this note for an oral report I wrote the following:

In section I, the draft of the High Command of the Army is summarized in a few sentences. At the same time reference is made to enclosure 1 which contains the text of this draft of the German Army. This enclosure is not contained in the document. In section II of the note for an oral report memorandum, on page 2 of the original, my own suggestions start.

There I refer to the memorandum of Rosenberg which I just mentioned. I repeat from this memorandum that only higher and highest functionaries are to be dealt with in Rosenberg's view,

* This affidavit is not reproduced herein.

since, in his opinion the others are indispensable for the administration of the country. Supported by the opinion of a high Nazi Party functionary, namely, Rosenberg, I continued in section III to express—I can only say that I dared to express—that a new decision of Hitler would be necessary. Thus, I wanted to gain time, and at the best I wanted to achieve that the whole order would once again be thoroughly examined.

In paragraph 2 of section III, I dealt in detail with Rosenberg's memorandum. My own suggestions remained far behind those of Rosenberg. For instance, I said that only such functionaries who opposed the troops by force of arms were to be regarded as *franc-tireurs* and thus liquidated. This had been provided earlier in other orders.

In paragraph 2 of section III, I went on to say, and I quote: "Functionaries not resorting to hostile actions will not be bothered for the present", and in another sentence I go on to say, and I quote, "Only after further penetration of the country will it be possible to decide whether the remaining functionaries may be left in their present locations or whether they have to be turned over to the Sonderkommandos insofar as they themselves are not in a position to effect the screening". Thus, I wanted to exclude civilian functionaries completely from the order. I wanted them to remain unmolested and when necessary to be screened by the Sonderkommandos. This clearly shows my opinion of the duties of these Sonderkommandos; I thought that it was their duty to carry out political screening.

In the last paragraph, paragraph 3, I repeat once again the suggestion of the German Army with respect to the functionaries with the troops. I thought there were no misgivings against such a treatment after I had received the assurance from the High Command of the Army, which I described earlier.

* * * * *

Q. As far as you were concerned, you submitted the matter to Jodl as a note for an oral report and it remained in Jodl's hands?

A. Yes, I had avoided adding the draft of an order which would actually have been my task.

Q. And what was returned to you from Jodl?

A. The development was interrupted, as far as I was concerned, quite suddenly. I was transferred to Paris a few days later and remained absent for ten or twelve days. This period was approximately from 19 to 29 May 1941. After my return, on a date which I can no longer specify, I found the final version of the directive which is contained in Prosecution Exhibit 56.

Q. That is NOKW-484.¹ This exhibit contains a cover letter signed "Chief of the OKW, By Order," and then comes your name.

A. Yes.

Q. To what level was this communication distributed?

A. The OKW distributed it to the High Commands of the three branches of the Armed Forces, Army, Navy, and Air Force; and in addition, to a few agencies of the OKW. The General Armed Forces Office was not one of these agencies.

Q. And from these agencies down, what happened—it was to be distributed down to what level?

A. Down to the commanders in chief of the armies and to the air fleet chiefs, that was consistent with the suggestion made by the High Command of the Army.

Q. Now how did these directives, which you found on your return, compare with your suggestions and with the preceding suggestions?

A. The directives deviated in some items from the draft of the High Command of the Army. The sentence stating that civilian functionaries, if captured during combat or while offering resistance, were to be liquidated by force of arms, is new. This sentence is contained in paragraph 2. Here it is revealed for the first time that my suggestions had some effect. Originally it had been ordered that they were simply to be liquidated without taking into consideration what their attitude had been. Here it is restricted to those who were apprehended in combat or while offering resistance. The following section, section II—I want to correct myself—section I is essentially consistent with the suggestions of the Army [OKH], in paragraphs 1 and 2. In paragraph 3, on page 3 of the original, however, a suggestion from my note for an oral report is taken over. Here it is stated that political functionaries who had not been guilty of any hostile act were to remain unmolested for the time being. That had been achieved by my suggestions. In the following second part of paragraph 3, another qualification is added, in as much as it is stated that when deliberating the question of "guilty or not guilty", the personal impression made by the commissar will take precedence over the facts of the case. This is a phrase which can only have emanated from Hitler.²

¹ Document reproduced earlier in this section.

² Compare the draft of the Commissar Order prepared by the High Command of the Army in Document 1471-PS, Prosecution Exhibit 54, with the final version (NOKW-1076, Pros. Ex. 57). These documents are reproduced above in this section.

* * * * *

Q. Now Jodl's remarks on your note for your oral report and your own remarks regarding these directives reveal that Hitler had seen the directives once again and himself made considerable additions. Generally speaking, the documents which are designated as Hitler orders and which you discussed during the last few days, bore his signature. These directives do not contain any signature and the first part of Document NOKW-484, Prosecution Exhibit 56, which distributes these directives was signed by you, "by order" of your superior, but it is not signed by Jodl or by Keitel. How was it that in this case you signed, and that you did not see to it that Hitler's signature was secured through the agency of Jodl or Keitel?

A. It struck me at once at the time that these directives as I received them were not signed. After some consideration, I said to myself that this might be an added advantage in view of the objectionable nature of the order, because, if it was not signed, this was one more formal excuse for anybody who wanted to circumvent it. That was the first reason why I decided to sign the cover letter myself to avoid the directive being signed subsequently. I had also one more reason for my action. If submission of reports on the execution of these measures ordered by Hitler could be avoided, then another advantage was secured in my view. Therefore, I had the cover letter drafted in such a manner that no reports were called for and I issued it as quickly as possible like this.

Q. Were regular reports received by the OKW afterwards?

A. I cannot recall a single case that a report about these events was made to the OKW, or that such a report was transmitted to Hitler by the OKW.

Q. The idea then was that by avoiding reports, Hitler's attention was not to be called to this topic again and again, is that correct?

A. No, not entirely. I was even more concerned that the agencies concerned were not forced to make reports about it.

Q. Do you know whether the High Command of the Army in its turn demanded reports?

A. I only heard this in the course of this trial.

Q. Now in your view, what opportunities did the commanders in chief of the armies have as regards their handling of these directives?

A. According to the view of the Commander in Chief of the Army, which I got to know in the course of time, and according to the version of the directives over which I was able to exert

some influence, I believed that the commanders in chief at the front had a good deal of latitude as to how they wanted to comply with this order. If they did not transmit it, then the troops would learn nothing about it. If they did pass on the order and conveyed to their subordinates that they attached no importance to the execution of the order or even that they did not wish it to be carried out, then provision was equally made for commissars, like all other members of the fighting troops, to be sent to the rear as prisoners of war.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. RAPP: Witness, just in passing, there was no doubt in your mind, was there, that this whole proposition of exterminating Russian commissars was obviously criminal and violated international law, was there, Witness?

DEFENDANT WARLIMONT: That brings us to the basic question, I believe, and I can only tell you that it did not occur to an officer as I who, in 1941 had been a soldier for almost thirty years, that his head of the state and the supreme commander of his armed forces would issue to him a criminal order. In addition, that was the first time that I had any contact at all with such matters. One is rather more apt to look for other explanations, and I found such other explanations in the fact that these political commissars in Hitler's opinion—and that, by the way, was also the opinion of the German Armed Forces—were not soldiers. As a consequence they were to be treated as political prisoners. This and similar ideas were mine at the time, but they arrived at the same conclusion as if I had assumed a criminal order to exist, because, as far as it was in my power, I endeavored to prevent the issuance and the execution of such an order. What was intended here I thought was militarily and morally improper.

PRESIDING JUDGE YOUNG: Just a minute, was it your idea that these commissars were Russian soldiers or Russian civilians?

DEFENDANT WARLIMONT: The question is almost as difficult to answer as the question of the Security Service on the German side.

Q. I understood you—

A. In our eyes they were not soldiers.

Q. I understood you to say that the opinion you had that they were not soldiers was shared by the army generally?

A. Yes, Your Honor.

Q. Then, if they were not soldiers, then they must have been civilians?

A. If you only recognize those two groups, civilians and soldiers, they were uniformed civilians.

Q. Do you know of any intermediate groups that you could say, "He is neither a soldier nor is a civilian"?

A. In the Third Reich almost every other person in Germany wore a uniform. There were members of the police, the SA, the SS, etc. They were not soldiers—

Q. Well—

A. But they wore uniforms.

Q. Well, they were something other than a soldier?

A. A soldier did not recognize them as soldiers.

Q. Then they were something, as you thought, other than soldiers, something different than soldiers?

A. Yes, Your Honor. In Germany there was the expression, "Para-military organizations".

Q. What I was getting at was just this—If the order which was printed before the invasion was not an order to kill prisoners of war summarily, then it is inescapable that it was an order to kill certain types of civilians summarily, isn't it?

A. That is the same.

Q. Either one way or the other?

A. Yes.

Q. I just wanted to get that straightened out.

A. Yes, that remains the same.

JUDGE HARDING: I have a question then. Why weren't they soldiers?

DEFENDANT WARLIMONT: Because, to the best of our information, they were political exponents, and it was their duty to control and check soldiers.

Q. They wore a uniform, didn't they?

A. Yes, I believe I have already said that.

Q. And they were in the Russian Army, weren't they?

A. That is to be assumed, but under a special category.

Q. Now about these officers that were sent into the German Army to teach national socialism, were they soldiers?

A. As far as I know that organization, they were only soldiers, and they were officers.

PRESIDING JUDGE YOUNG: That was all?

JUDGE HARDING: Yes.

PRESIDING JUDGE YOUNG: You may proceed.

MR. RAPP: As a matter of fact, Witness, it is true, is it not, that the word "troop commissar" derived from the fact that they were in the front lines fighting with the troops in uniform, as distinguished from those which you said Rosenberg originally wanted to have saved, that is the political dignitaries of the state?

DEFENDANT WARLIMONT: Yes. You have to distinguish between these two groups, the political functionaries and the troop commissars, but I would like to stress once again that as far as I and my opinion were concerned, it was immaterial whether those people were soldiers or civilians. My efforts were directed against the provisions in both instances.

Q. Now, you said previously that you did not at that time feel that this was a criminal type order. Now, don't you think that Jodl was aware of that fact, as can be seen by his marginal note on page 2 of that order? I would like you to read that to the Tribunal. That is in Document 884-PS, Prosecution Exhibit 55,¹ Your Honor.

A. "We must count on reprisal measures against German airmen. Therefore, the whole operation is best represented as a reprisal action".

Q. Don't you think that indicates pretty clearly that Jodl knew what he was doing?

A. I did not read that notation at the time, nor did I hear him express it. To the best of my knowledge I did not discuss this question with him at all. What he meant in stating these words I cannot explain to you, but he made detailed statements about this before the International Military Tribunal.²

Q. I would like to show you now NOKW-484, Prosecution Exhibit 56,³ and I would like you to identify for me the signature appearing on the first page of that document.

A. It is my signature.

Q. And this was the distribution of the Commissar Order on 6 June 1941, to the Commander in Chief of the Army, to General Mueller, to the Commander in Chief of the Air Force, and to the

¹ Document reproduced above in this section.

² Jodl's testimony with reference to this document is contained in Trial of the Major War Criminals, op. cit., vol. XV, p. 808.

³ Document reproduced above in this section.

Commander in Chief of the Navy, isn't that right, and you distributed it "by order"?

A. Yes.

Q. And there again, Witness, the ninth and tenth copies of that particular Commissar Order were kept by the Department National Defense?

A. Yes.

Q. And if you please look at the second paragraph of this cover letter, you will see that your letter directed that the distribution be made only to army and air fleet commanders, and that the other chiefs and commanders should be informed by word of mouth only, that is correct, is it not?

A. Yes, and in this instance also I repeated what the High Command of the Army had suggested in the communication dated 6 May. That is contained in Document 877-PS, Prosecution Exhibit 53.

Q. What was the reason for that extraordinary secrecy, Witness, that it was only to be passed on by word of mouth?

A. Undoubtedly the contents of the order was the reason. That could and was bound to be misunderstood by anybody who did not know what additional directives were issued.

Q. Did you at any time, Witness, in distributing this Commissar Order to the High Commands of the Army, Navy and Air Force, suspect that they would file this directive away in their safe, or did you expect that they in turn would distribute it as they were directed to do?

A. I did not concern myself with that question.

Q. Well, in any event, Witness, the purpose of drafting, issuing, and passing down this order was certainly to see to it that it was obeyed, otherwise there is no purpose in ever issuing an order is there?

A. No, in Germany in those days one was under pressure to distribute orders, even if one knew they were not carried out, and they were not to be carried out, and one was happy if one found ways and means for this. In this instance in the case of political functionaries, that had happened, I had managed to assert my opinion that these people were to remain unmolested. That is what is contained in the final version of the directives. My suggestion is utilized there. As to the commissars with the troops, the Commander in Chief of the German Army, after all that had been conveyed to me, had seen to it that the order was not executed.

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENDANT LEHMANN*

DIRECT EXAMINATION

* * * * *

DR. VON KELLER (counsel for the defendant Lehmann): Now I would like to turn to a new subject, the Commissar Order. Witness, this morning when we were dealing with the conference in Berchtesgaden, which you attended with Field Marshals Keitel and Jodl, you already touched upon the Commissar Order. Might I ask you to report about when you came into contact with this subject for the first time?

DEFENDANT LEHMANN: As far as I know I heard for the first time from Admiral Canaris about the intention that commissars were to be killed. This must have been before the conference in Berchtesgaden. The Admiral was rather irritated about this intention and he told me of it very confidentially while we were conferring about something else. Then I brought this subject up in Berchtesgaden. It fitted the debate very nicely because I wanted to show that excesses were a danger for the troops, and I mentioned this information which I had obtained from Canaris.

Q. In which form did you do this?

A. Well, I said that it was absolutely impossible for such plans to be carried out. They couldn't come to a good end. Thereupon Field Marshal Keitel interrupted me very brusquely and said, "Herr Ministerialdirektor, we are talking about jurisdiction here. The commissars have nothing at all to do with jurisdiction. Please confine yourself to your own sphere". I have already said that the Field Marshal in general was very polite to me, but if necessary he could also be very military and there was no contradiction. He said once again with emphasis, "We are talking about jurisdiction here. You don't have to bother yourself about the other matter".

Q. And what about Jodl? What did he do while that was being discussed?

A. He said nothing at all.

Q. Apart from what you have just told us, was there any other mention of commissars in Berchtesgaden?

A. No. I set down this conversation at home in a note, as I set down the whole Berchtesgaden conference in a detailed memorandum for the files. These notes were received by my experts to read.

* Complete testimony is recorded in mimeographed transcript, 15-16, 19-20, 26-27 July 1948; pp. 7909-8180, 8481-8582.

Q. After Berchtesgaden did you have any contact at all in any form whatsoever with the Commissar Order?

A. Yes. General Warlimont sent me the draft of the OKH dated 6 May 1941. This is again contained in document book 3-A, Document 877-PS, Prosecution Exhibit 53.¹ The covering letter is on page 1. In this covering letter under arabic 2, the draft of the German Army about the Commissar Order is reproduced, and General Warlimont sent me this draft. The continuation of the whole matter can be seen from the same document. It is Document 1471-PS. Right at the end of the document on page 8 of the original, a telephone call between General Warlimont and me is mentioned. There is also reproduced a communication which I signed and which was addressed to General Warlimont.

Q. Might I point out that Document 1471-PS is Prosecution Exhibit 54. It starts on page 8 in the English and also on page 8 in the German.

A. In the telephone call I told General Warlimont that Field Marshal Keitel had expressly forbidden an opinion on this matter by me, and thereupon I limited myself in the last paragraph to suggesting a different formulation for this suggestion of the German Army. In its suggestion to the Commissar Order under Roman III, that is on the last page of Document 1471-PS, English page 15, German page 16, here the army had already stated that the courts were to have nothing to do with these commissar matters, and for this I suggested a new formulation through which I wanted to express even more strongly the fact that the courts in this matter were under no circumstances to be drawn in. It is the most precise formulation which I could possibly think of.

Q. Might I ask you to read this formulation?

A. My formulation runs—"The courts martial and the summary courts martial of the regimental commanders must not be charged with the execution of the measures indicated under 1 and 2". I wanted to eliminate any possibility of a connection between the courts and these measures under all circumstances. That was the purpose of the formulation.

Q. Was that the only possibility of keeping out of the matter and of expressing rejection?

A. I had no other possibility left.

Q. Who knew this course of development?

A. My experts and probably Dr. Lattmann.²

¹ Reproduced in part in this section.

² Dr. Erich Lattmann submitted an affidavit for Defendant Lehmann (Lehmann 217, Lehmann 89), an extract of which is reproduced below in section VII B 1 b.

Q. And who knew what your attitude was in Berchtesgaden towards this commissar idea?

A. That could only be seen from the notes which I had made and which were read by my experts. But one could also see my attitude from this communication.

Q. Well, you had nothing at all to do with the factual contents of the order?

A. No, nothing at all.

Q. Did you have to deal later on with any kind of questions which had anything to do with the treatment of commissars?

A. No.

Q. Did you know later on about the correspondence between military agencies on this subject and, if so, when?

A. No, not as far as I know.

* * * * *

Q. I will now show you Document NOKW-1076, Prosecution Exhibit 57¹ from document book 3-A. Would you please comment on it?

(Document handed to witness.)

Q. Did the legal department receive this order?

A. No.

Q. What is your opinion of the order according to international law?

A. My opinion is quite clear. The order cannot be justified.

Q. Your Honor, this also concludes the Commissar Order in the examination of my client.

* * * * *

EXTRACT FROM THE TESTIMONY OF DEFENSE WITNESS
FRANZ HALDER²

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Witness, as I understood your testimony with reference drafts of those orders were made in the OKH and that you also recall that General Mueller discussed these orders with you, is that correct?

¹ Reproduced in part in this section.

² Complete testimony is recorded in mimeographed transcript, 12-16 April 1948, pp. 1817-1864, 1867-2155.

WITNESS HALDER: Concerning the Barbarossa Order, if you mean the operational order, I do not recall it. The operational order was issued by the OKW. Now with reference to the so-called, "Commissar Order", I do know that the Commander in Chief of the German Army through General Mueller, entered into an exchange of communications with the OKW. Mueller informed me orally along large outlines about this correspondence.

Q. Well, did you advise Mueller at all in connection with the drafting of the Commissar Order?

A. No, I did not consult with him. I did not advise him.

Q. Well, weren't you very much concerned about this Commissar Order?

A. No. The situation was altogether different. Concerning the matter of the Commissar Order, after the discussion, during which Hitler voiced his ideas and sentiments, I asked the Commander in Chief of the German Army to apply for his and my immediate resignation and to tell Hitler about it. The Commander in Chief of the German Army, however, in consideration of his responsibilities towards the troops, could not get himself to make this decision. He talked about the attempts which he was going to make to arrange matters via Keitel. When Mueller told me about this, namely, that Keitel was to be approached in this matter, and when he wanted to submit any correspondence in this respect to me, I said, "I don't accept that. The Commander in Chief knows my opinion in this matter and I have nothing to add to it". Mueller might have regarded that as an excited disagreement.

Q. Well, you didn't go ahead and resign yourself though?

A. No.

Q. It was the responsibility you felt you owed to the troops that prevented you from doing that?

A. After the Polish campaign when the first serious differences arose in connection with the Polish atrocities, at that time, in a very serious discussion I asked my commander in chief, to relieve me from my office and to allow me to resign. My commander in chief implored me at that time to remain at his side. This serious discussion in the small hours of the morning ended with our shaking hands and promising each other to remain side by side in the fight against Hitler as long as our strength lasted. This was my reason for not asking for my resignation. I had promised not to do so.

* * * * *

3. EXECUTION OF THE COMMISSAR ORDER

PARTIAL TRANSLATION OF DOCUMENT NOKW-2672 PROSECUTION EXHIBIT 598

EXTRACT FROM ACTIVITY REPORT NO. 2 OF PANZER GROUP 3,
JANUARY-JULY 1941, CONCERNING SPECIAL TREATMENT
OF COMMISSARS

Panzer Group 3
Department Ic

* * * * *

[Handwritten] Homeland, Russia

[Handwritten] seen 25 September 1941.

[Signed] HOTH

* * * * *

The special treatment [Sonderbehandlung] of political commissars by the troops soon became well known on the Russian side and increased the resistance. To avoid publicity, special treatment should have been carried out at first in camps located more in the rear. Also the majority of the captured Red Army soldiers and officers know of such special treatment. They had been informed through their own orders and through reports of political commissars who had escaped from German prison camps.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-1449 PROSECUTION EXHIBIT 95

RADIO MESSAGE FROM 61ST INFANTRY DIVISION TO 18TH ARMY,
26 OCTOBER 1941, CONCERNING THE SHOOTING OF COMMISSARS

Radio message 61st Infantry Division

26 October 1941

Evening Report

[Handwritten] Report to Army Headquarters. Reports made. [Illegible initial]

Nothing particular to report. 16 commissars shot dead [erschossen].

61st Infantry Division—Ic

Received by: Pfc. Holt—1430 hours

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2096
PROSECUTION EXHIBIT 88

REPORT FROM XXVIII ARMY CORPS TO 18TH ARMY, 27 SEPTEMBER
1941, CONCERNING THE SHOOTING OF A POLITICAL COMMISSAR

* * * * *

XXVIII Army Corps, Ic

[Handwritten]

XXVIII Army Corps, Section Ic

Activity report III,

Enclosure 8

To 18th Army Command, Ic

Command Post, 27 September 1941

* * * * *

On 25 September, the Battalion Commissar Kanajev (110th Railway Protection Regiment of the 2d NKVD division) was found asleep on the bank of the Tossna near the mouth of this river. He was taken prisoner and shot after a thorough interrogation. The Railway Protection Regiment had the task of guarding the Pskov-OPOCHKA-Leningrad line. It was encircled together with the XLI Corps, and destroyed completely during a break-through attempt. The regiment consisted mainly of older reservists. Only very few of the officers belonged to the Party.

He allegedly did not know anything about the treatment of German prisoners. Kanajev did not wear any Commissar stars on his sleeves, since he allegedly had forgotten them. The Commissar was born in 1899, near Moscow as the son of a farmer. As member of the WKP(b) since 1919, he participated in the civil war from 1920 to 1922 as company leader in the Red Caucasus Army. From 1922 until 1929 he studied at the Pedagogical Institute of Lenin's Widow and then belonged to the Academy of Arts until 1932. From 1932 until 1934, Kanajev worked as District Soviet in Pskubsk. Since 1934, he had been first secretary of the literary institute of the Academy of Sciences and received a salary of 1,200 rubels per month. He last worked on a history of Russian literature.

Kanajev was under the command of the regimental commissar, and was an instructor in the organization of Party work. He had to carry out the political training of the soldiers and was responsible for their spiritual welfare. Among other things he had under his command for this a regimental cinema van.

The papers found on Kanajev are enclosed in this letter.

FOR THE ARMY CORPS HEADQUARTERS

The Chief of the General Staff

Enclosures:

[Illegible signature]

* * * * *

TRANSLATION OF DOCUMENT NOKW-1570
PROSECUTION EXHIBIT 73

RADIO MESSAGE FROM XLI ARMY CORPS TO PANZER GROUP 4,
9 JULY 1941, CONCERNING LIQUIDATION OF POLITRUKS*

Radio Message No. 540
to

Remarks:

Sender:	No. of Message	Place	Day Month	Hour Minutes
XLI Army Corps Sent			9 July	(1515)
	Received		9 July	(1615)
	To Panzer Group 4	Ti/Tu		

[Illegible initials]

[Handwritten] file. Up to 8 July, 97 Politruks liquidated.

Certified:

[Illegible signature]

TRANSLATION OF DOCUMENT NOKW-1569
PROSECUTION EXHIBIT 72

RADIO MESSAGE FROM 269TH INFANTRY DIVISION TO XLI ARMY
CORPS, 9 JULY 1941, CONCERNING LIQUIDATION OF POLITRUKS

Radio Message

To be filled in by the message center	Message Center 2.m.b. (2/269th Sig. Bn.)		No. 197	Sent				
	Notes:			to	day	time	by	roll
	Received or taken				9 July	13:55		
	from	day	time	by				366
To be filled in by the message center	Dispatched		To XLI Army Corps	Dispatching office				
	Day 9 July Time (13:40)			269th Infantry Division (forward)				
	Priority:			Telephone Connection				
Contents	34 Politruks liquidated							

* For explanation of term "Politruk", see Glossary.

PARTIAL TRANSLATION OF DOCUMENT NOKW-1674
PROSECUTION EXHIBIT 74

RADIO MESSAGES FROM PANZER GROUP 4 TO ARMY GROUP
NORTH, 10 JULY AND 25 JULY 1941, REPORTING LIQUIDATION
OF COMMISSARS

Office: Panzer Group 4

Radio station: 1st Company
Panzer Group
Signal Regiment 4

Message No.	Dispatched on 10 July 1941	11:50 by
	Received on193.o'clock by.....
	Delivered on193.o'clock

from
Radio Message No. 559
to

Remarks:

Dispatching office:	Report	Place	Day	Hour
Panzer Group 4	Sent		10 July	10:30
	Arrived			
	To Army Group North			

With reference to Commander in Chief of the Army, General for Special Missions attached to the Commander in Chief of the Army (Legal Affairs Group) No. 91/41 Top Secret of 8 June 1941, we report that up to 8 July, 101 have been liquidated.

Panzer Group 4 Ic

Certified:

[Signed] BOTHE
Second Lieutenant

Teletype Office

□ □ □

Teletype name

Current Number

To be filled in by the Teletype office

Accepted:
Received:
Date193.
at:
from:
by:

Dispatched:
Date: 25 July 1941
at: 13:15
to: HFMX
by: Pfc. Seelig
roll:

Remarks:

Teletype:

Postal Telegram: from Panzer Group 4

Telephone:

25 July
Date sent

12:05
Time sent

To Army Group North

Place of Destination

Remarks for dispatching (to be filled in by sender)

With reference to Commander in Chief of the Army, General for Special Missions attached to the Commander in Chief of the Army (Group Legal Affairs) No. 91/41 Top Secret of 8 June 1941, we report that from 22 June until 19 July 1941, inclusive, 172 have been liquidated.

Panzer Group 4 Ic

Certified:

[Illegible signature]

Captain, GSC

Action taken.

[Signed] GLANZDORF, Corporal

Forwarded by telephone at 1130 hours.

PARTIAL TRANSLATION OF DOCUMENT NOKW-147
PROSECUTION EXHIBIT 370

EXTRACT OF MEMORANDUM BY MINISTERIALRAT LETSCH, REICH
LABOR MINISTRY, 22 DECEMBER 1941, CONCERNING
CONFERENCE WITH DEFENDANT REINECKE ON
THE TREATMENT OF "SEGREGATED"
RUSSIAN PRISONERS OF WAR

Berlin, 22 December 1941

[Stamp] Secret

The Reich Minister of Labor
Va 5135/10153/41 Secret
Ministerialrat Dr. Letsch

Subject: Labor allocation of Soviet Russian prisoners of war

1. Memorandum—On 5 December 1941, the undersigned attended a conference with Major General Reinecke, at which appeared representatives of the Eastern Ministry, section I (Leibrandt)—and of the Reich Fuehrer SS—Reich Security Main Office—(SS Major General Mueller).

The following was discussed:

(1) General Reinecke requested that, in view of the new situation, special consideration be taken with respect to skilled workers in professions with a shortage of labor in the course of the segregation measures by the offices of the Security Police. SS Major General Mueller stated that so far only a total of about 22,000 Russian ["Russian" handwritten] prisoners of war have been segregated, of whom about 16,000 have been liquidated. He stated he had full understanding for the situation and was ready to instruct his offices once again that, in case of doubt, workers who are essential for labor allocation should be excepted from segregation.

* * * * *

[Signed] LETSCH 20 December

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON LEEB*

DIRECT EXAMINATION

* * * * *

DR. LATERNSENER (counsel for defendant von Leeb): Now, let us turn to count 2 of the indictment. I would like to turn to the Commissar Order. Did you know the Commissar Order?

DEFENDANT VON LEEB: Yes.

Q. What was the position you took with regard to the Commissar Order?

A. From the legal point of view, I regarded it as contrary to international law. And from the military point of view, I regarded

* Complete testimony is recorded in mimeographed transcript, 19-22 April 1948; pp. 2277-2584; 7770-71.

it as a great piece of stupidity. On the contrary, we should have given the commissars all assistance possible to come over to us.

Q. What was your attitude to international law?

A. Now for almost half a century—for 53 years—I have been a soldier, and I grew up in the tradition of waging war according to principles of law and justice.

Q. When did you hear about this Commissar Order for the first time?

A. About the order I heard for the first time in June—but Hitler had already spoken at the end of March 1941, about the fact that commissars were not to be regarded as soldiers.

Q. That was the conference which we have already discussed in another connection, you meant the conference at the end of March 1941?

A. Yes.

Q. How did the speech finish—the speech which Hitler made?

A. Like all these speeches of his, as I previously stated.

Q. And was there an opportunity given during this address to make representations to Hitler himself in this respect?

A. No.

Q. What did you do after the conference?

A. I went to Herr von Brauchitsch and protested against this order or against this intention.

Q. And who else made representations?

A. Several commanders objected, as far as I remember, Herr von Bock was present, he was my neighbor.

Q. What was Brauchitsch's attitude when these protests were made?

A. He told us at that time that he would do everything to prevent such an order being given, and we could be reassured and go back to our headquarters.

Q. And was the order issued?

A. Yes.

Q. And which agency issued it?

A. The High Command of the Army.

Q. Did you again protest?

A. I protested on several more occasions with the superior agencies in the High Command of the Army and in the OKW.

Q. Did you also talk with the commanders of the other army groups about it?

A. I don't remember any more whether I talked to Herr von Bock personally or whether he talked to me about it on the telephone or whether the chiefs of staff spoke about it; but I knew that Herr von Bock was against the order in the same way as the commander of Army Group South.

Q. Who was that?

A. That was Herr von Rundstedt.

Q. When did you make further protests?

A. The Commander in Chief of the German Army at the beginning of July came to me to Kovno [Kaunas] and I availed myself of this occasion.

Q. What did Brauchitsch say in reply to this protest?

A. He said he would do whatever he could.

Q. And did you make further protests?

A. Keitel visited me frequently, first of all, in Mainarva in July. This lies between Kovno and Pskov. And then at the beginning of September, he visited me in Pskov. Whether he again visited me in the meantime, I can't recall.

Q. And then what did you say to Keitel on the occasion of these two visits?

A. I told him the same as I told the Commander in Chief of the German Army.

Q. What did Keitel say?

A. He said he would do his best.

Q. Did you raise another protest?

A. The Commander in Chief of the German Army then came later on to me, as far as I recall, it was the beginning of August, certainly the beginning of September. I know the date because Herr von Brauchitsch and Keitel came on 2 consecutive days—on the 3d and 4th of September.

Q. What did you say to Brauchitsch on this occasion?

A. I said the same. The prosecution submitted a document referring to the protest made by the commanders in chief of the army groups.

Q. Might I draw the attention of the Tribunal to the fact that this document is NOKW-200, Prosecution Exhibit 87.

A. This is a communication from the Commander in Chief of the German Army to the OKW in which von Brauchitsch states

that the commanders of the three army groups had made personal representations to him, asking for this order to be withdrawn.

Q. Was the order subsequently rescinded?

A. Yes.

Q. Do you know when it was rescinded?

A. It was no longer during my time. It was only rescinded later on, but I hope that my objections also helped.

Q. Now, let's go back to this conference in March 1941. What reasons did Hitler give at that time in support of such an intended order?

A. At that time Hitler talked about the atrocities which the commissars had committed in the Baltic countries. These countries were occupied in 1939, by the Russians, and Hitler used such terms as, "criminals", and he said, "They are political commissars, functionaries; they are the main bearers of communism and, therefore, they are not soldiers."

Q. What did you think about this reasoning?

A. From the legal point of view, it didn't seem to me to be very convincing that the commissars were not soldiers because, after all, they were uniformed, and they were divided up into formations. And for the rest, with regard to the activity of the commissars as described by Hitler, this was very soon confirmed. It turned out that in no way did the commissars in their turn adhere to international law. It was frequently shown that they were deeply hated and frequently they were betrayed by their own troops.

Q. When, then, did you receive the actual Commissar Order?

A. During the course of June, before the beginning of the campaign.

Q. And how did you receive it?

A. The army group received it only for information purposes.

Q. How many copies?

A. It was in one copy.

Q. How did the army commands receive the order?

A. They received it directly from the High Command of the Army.

Q. Could you prevent this distribution?

A. No. I cannot do anything to prevent it if a superior agency distributes an order.

Q. Were troop units subordinate directly to you?

A. At the time, before the beginning of the campaign, the L Army Corps was subordinate.

Q. Did you pass on the Commissar Order to this army corps?

A. No.

Q. What was the relationship of the Commander of the Rear Area of the army group to the army group?

A. He was subordinate to me, except for the areas which I mentioned previously.

Q. Did you pass this Commissar Order on to this agency?

A. No.

Q. Who was the Commander of the Army Group Rear Area?

A. General von Roques, not the defendant here, General von Roques, but a relative.

Q. Did you ever pass on the order either orally or in writing?

A. No.

Q. Now, there was an order in existence that you considered contrary to international law. What did you do about it in relation to your superiors?

A. I have already stated that I protested.

Q. Repeatedly?

A. Repeatedly.

Q. What did you do with regard to subordinate units?

A. In dealing with subordinate units, I said that this order was not to be carried out. In addition, I would like to say that the people on my staff—mainly the chief of staff—conveyed this [my intention.]

Q. Whom had you to inform in order to give effect to such an intention throughout your area?

A. Two armies and Panzer Group 4.

Q. Which units were subordinate to you at that time?

A. The 16th Army, the 18th Army, and Panzer Group 4.

Q. And who commanded these troop units?

A. General Busch, who died in captivity, the then General von Kuechler, and General Hoepner*, who was hanged.

* Erich Hoepner, executed by the Nazis in connection with his participation in the plot on Hitler's life, 20 July 1944.

Q. Did you talk with these commanders about the Commissar Order?

A. Yes.

Q. In which sense?

A. On the lines which I have already mentioned, that is, that I was against it.

Q. What was the attitude of these commanders who were subordinate to you? What was their attitude towards the order?

A. The same as mine.

Q. In the meantime did you ever meet any other opinions about it?

A. No.

Q. When did you discuss the order with the commanders subordinate to you, during which period?

A. Before the beginning of the campaign.

Q. How did you discuss these circumventions?

A. Orally.

Q. Why didn't you do it in writing?

A. Because a written order on my part would not have been expedient but would have defeated its purpose. Firstly, because I could not rescind an order of Hitler, and secondly such an order on my part, under the supervision to which I was subject, would have become known immediately to the highest quarters. What would have happened to me then doesn't matter at all. In any case Hitler would then have found out about this strong opposition, and Hitler was the very man to do something about this opposition.

Q. Did you on other occasions, too, point out to your subordinates that the order should not be carried out?

A. When I flew to the front, that is to the commanders at the front.

Q. Did you frequently ask about the Commissar Order and its execution?

A. During the first period I probably always asked about it; but later, during the course of the winter, this affair receded more and more into the background.

Q. Why did you not publicly repudiate the order?

A. A public repudiation would have consisted in my submitting a report to higher quarters, with the approximate contents, "I have given instructions for the order not to be carried out," and

the consequences would have been the same. The whole thing wouldn't have done any good at all, only damage.

Q. What part did the order play for you personally?

A. It was one of the reasons why I resigned later on.

Q. Why did you not resign on the occasion of the issuance of the order?

A. Up until then for almost 2 years we had been waging war, and until then Hitler had asked nothing of me which was contrary to international law or any other law. On the other hand, however, the enormous hate which Hitler had for communism and especially for the carriers of this communism, the commissars, was well known. Of course, even allowing for this hate he should not have issued such an order; but from this unique order one could not conclude a fundamental disregard for international law. In addition, as a commander, I knew that all commanders with whom I talked were against this order. Therefore I hoped that, at least, it would not be carried out in its full measure; and if I had resigned at that time then I would have saved myself in the cheapest manner possible, but at the same time I would have given up the struggle against Hitler. For the rest, such an application to resign would probably not have made the slightest impression on Hitler. In addition, it would probably have become known why I resigned, because I couldn't suddenly say, "I am ill; I can't go on any longer."

Q. Field Marshal, what do you think today about this question?

A. I have had ample time and opportunity to think about this order, and about what we did at that time under the pressure of responsibility, and I must admit here that I don't know even today any better way. At that time, as far as it was possible at all, we tacitly sabotaged the order and everything depended on our doing it tacitly. I really don't know today how we could have done it differently.

Q. What did the High Command of the Army do in order to weaken the effect of the order?

A. It has already been discussed here that the High Command of the Army issued an order which asked for the strictest discipline. This order had some connection with the Commissar Order but also with the so-called Military Jurisdiction Order of Hitler dated 13 May 1941.

Q. In which sense was this order interpreted, this order of the High Command of the Army?

A. In the sense that it counteracted the Commissar Order. Apparently things were like this—the Commander in Chief of the German Army didn't get his way with Hitler. They couldn't get Hitler to drop this order, and therefore, the High Command of the Army tried in some way to alleviate our position.

Q. Now with regard to the execution of the order which the prosecution maintains.—The prosecution has submitted reports which supposedly reveal that the order was carried out. Document NOKW-2179, it is Prosecution Exhibit 64. This document contains reports of the 16th Army according to which, within the area of the 16th Army from 27 July, until 20 September, altogether 17 commissars were shot. Do you know this report or this document?

A. This is actually several reports and I read them in the document books submitted by the prosecution.

Q. What can you say about these documents? What can you give as an explanation for these reports?

A. These reports cover a period of two months and I counted up the commissars in all these reports. The result was 17 commissars. In these same reports, however, the troops gave the number of prisoners taken during this period from July to September. I added up these prisoners, too, and altogether there were 114,322, and to these 114,000 prisoners belonged about 1,200 to 1,500 commissars who were apparently taken prisoner and were not shot. Therefore, in other words, these documents reveal convincingly that the order on the whole was not carried out. It is also not absolutely certain whether these 17 commissars were shot after a battle or whether they were, which seems to me very probable, commissars who fell during battle.

DR. LATERNSENER: Your Honor, in this connection might I point out and I will submit the corresponding corrections of the translations to the Tribunal, that in reports about the killing of commissars the translations, as far as I have looked at them, frequently do not correspond with the German text.

PRESIDING JUDGE YOUNG: You may make any of those corrections if you see fit.

* * * * *

DR. LATERNSENER: The reports, up until the end of December 1942, of the 16th and 18th Army, show altogether 96 commissars as shot. What are your comments on this result in general?

DEFENDANT VON LEEB: In the campaign against Russia there were no large encirclement battles as with Army Group South and Center. My battles took place mainly as heavy frontal fighting.

As a consequence, the number of prisoners captured by my army group in comparison with the number of prisoners taken by Army Groups South and Center is a rather modest one. The number of prisoners taken by the two armies the 16th and 18th until the end of December, amounted to approximately 200,000 to 220,000. Among these 220,000 prisoners there were about 2,000 to 2,500 commissars. Since 96 are reported as having been shot, one should assume that Hitler's order was not actually adhered to, but that the opinion of the generals and commanders was being followed. Furthermore, it isn't even sure whether these 96 commissars weren't people killed in action, which seems quite probable.

Q. What else can you tell us to support your opinion?

A. The prosecution has produced the witness Ohler, and this witness has testified that alone in Hammelburg camp, near Wuerzburg, he segregated 500 commissars. These commissars can only have come from our troops, that is, they were captured and not shot.

Q. A further report of the XXVIII Corps, dated 23d of July, mentions 14 commissars. I may point out that this concerns Document NOKW-2186 which was Exhibit 63 of the prosecution. What is your opinion of that report, the report of the XXVIII Corps?

A. The XXVIII Corps during the days before that report was made, that is before the 23d of July, I believe, during the days from 16 to 20 July, was engaged in heavy fighting. It fought for the Stalin fortification line, which I mentioned before, near Novorzhev, and at that time the XXVIII Corps succeeded in annihilating about 5 enemy divisions. Among these 5 enemy divisions there were about 400 commissars and it was reported that 14 were shot; even there you don't know whether they hadn't been killed in action.

* * * * *

Q. In Document NOKW-2467, Exhibit 97 of the prosecution, there is a collective report of the XXXIX Corps dated 16 November, that concerns 22 commissars shot. What do you know about that report?

A. We have an affidavit executed by the then First General Staff Officer of that corps. He is now General von Natzmer. This affidavit states that the commissars mentioned were commissars killed in battle.

Q. A further report of the 61st Division dated 26 October stated that 16 commissars were shot. (NOKW-1449, Pros. Ex. 95.) What do you know about that report?

A. That statement is one which never found an explanation. Nobody could be discovered who could explain that report. Those who might have been able to make explanations are either dead or their addresses could not be found. Therefore, I cannot tell you anything about this report.

* * * * *

Q. According to Document NOKW-2186, which is Prosecution Exhibit 63, the [L] Corps reports on the 23d of July, that the captured commissars were not shot. On 27 July, however, and that becomes apparent from Document NOKW-2179, which is Prosecution Exhibit 64, the corps reports one commissar shot. What is your explanation for this discrepancy?

A. I don't know, of course; I don't know how it came about that this one commissar was shot, but I could think of an explanation how it happened. After the beginning of the campaign I subordinated the L Corps to the 16th Army in order to strengthen the right flank of the 16th Army, because I was interested in advancing this flank as much as possible. What happened apparently was that the L Corps was asked to report automatically concerning commissars who had been shot. Subsequently the corps reported that the captured commissars were not shot because obviously at the time the corps didn't know anything about the order, it had not received it. I suppose that the 16th Army instructed the L Corps to report the commissars shot, and then in the next report, three or four days later, it was reported, "one commissar shot"; and that was the only one commissar who was shot in the area of the L Corps; I found no further reports.

Q. We have now discussed a few reports which have been submitted in order to prove that the Commissar Order was carried out. To what extent were you informed at that time about these reports?

A. I do not remember any of them at all; all these reports were concocted behind my back. I can say with certainty, however, that the report of Panzer Group 4 reporting 172 commissars shot, never came to my attention. If it had come to my attention, I believe I can say I would remember it. I can only say here today I regret that this report was not shown to me, because if it had been, I could tell the Court what was involved in these reports. As it is, I can't do so.

Q. Field Marshal, did you ever at any time and from any source, learn about the actual shooting of the commissars?

A. No.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Witness, in commenting on our Document NOKW-2179, Exhibit 64, which are reports of the 16th Army on commissars shot, you stated that these reports show the capture of something like 114,000 PW's, of whom you estimate twelve to fifteen hundred were commissars, is that right?

DEFENDANT LEEB: Yes.

Q. Will you tell the Tribunal how you arrived at that estimate?

A. As an average I assumed there was one commissar for every 80 enlisted men, inclusive of all commissars in higher levels, that is with the battalion, regiment, division, etc., and that is how you arrive at the figure of 1200. Now, unless I am mistaken, I said that was approximately. Of course, I can't state the figure exactly.

Q. You assumed that all the commissars were captured which would have comprised a group—which would have been comprised in a group of formations of 114,000 men. You assumed they were all captured, didn't you?

A. About 1,200, there must have been about 1,200 of them. I did not assume that all had been captured. I believe this question cannot be answered by anybody. This question could only be answered if somebody had been in all the places and all the time in order to determine that no commissars had been shot. Now, I, for my person, can only express the hope, or could only hope at the time that as few commissars as possible were shot. Perhaps no commissar was actually shot, but I don't know.

Q. If I understand all that, the only thing I am trying to bring out is the basis for your estimate, and I must take it you have assumed one commissar for every 80 men. What is the 80 men? Is that roughly a squad, battalion, or what?

MR. RAPP: Two platoons.

MR. MCHANEY: That is roughly one commissar to two platoons?

DEFENDANT VON LEEB: To about one company, including the losses incurred by the company and individual commissars, including those on higher levels, because quite a number of commissars is added in this way. I don't know in detail how many commissars were attached to higher levels, but in my opinion it was merely a rough estimate. As an average it might have been 1 commissar for every 80 men. Perhaps the estimate is too high; perhaps it is too low.

Q. You also assumed in this figure that none of the commissars in this group of 114,000 men escaped detection, didn't you?

A. I don't believe that, because they had their papers and their identity could be determined. At that time they probably still wore their insignia, so that there were no great difficulties in the way of recognizing them. In this case the troops did not have to detect their identity, because whoever was not detected as a commissar was out of the question for shooting. But how matters actually took place in the front line with the troops, that I don't know.

Q. Witness, you have assumed on the basis of your experience that there were so many commissars to a company, and you have here so many prisoners of war, and you have assumed that there were so many commissars in that group. Then you argue that since only so many out of that group were killed, then, therefore, the Commissar Order wasn't carried out: I put it to you that your assumption carries with it the further hypothesis that all of them were detected and known to be commissars and deliberately not shot. Now, that is correct, isn't it?

A. Yes. Whether all commissars were actually detected, I don't know, but, at any rate, they were not shot. That goes for both those detected and those that were not detected.

Q. And you conclude from all of this that it is apparent on the fact of these reports that the Commissar Order was not carried out, or at least to a diminished extent, is that right?

A. I hope so.

* * * * *

EXTRACTS FROM TESTIMONY OF DEFENDANT REINHARDT*

DIRECT EXAMINATION

* * * * *

DR. FROHWEIN (counsel for defendant Reinhardt): General, I will first put to you a copy of the Commissar Order. It is NOKW-1076, Prosecution Exhibit 57. Did you at the time receive this so-called "Commissar Order" from the High Command of the Army?

DEFENDANT REINHARDT: This order was not received by me in this form. The distribution list does not mention my corps headquarters. The order was issued down to the level of the Panzer groups, but it did not go down to the corps level.

*Complete testimony is recorded in mimeographed transcript, 5-7, 10 May 1948, pp. 3334-3639.

Q. At that time you were still commanding general of the XLI Panzer corps, weren't you?

A. Yes.

Q. Did you receive the Commissar Order from your next higher headquarters, that was Panzer Group 4 at that time?

A. Yes.

Q. In what form did you receive knowledge of the Commissar Order at the time from Panzer Group 4?

A. This order was brought to my attention in Allenstein, at the headquarters of Panzer Group 4 during a conference. It was made known to me by General Hoepner.

Q. In what manner was this order made known to you by General Hoepner?

A. By word of mouth.

Q. What did you do when this order was reported to you by word of mouth?

A. I protested to General Hoepner against this order.

Q. Why did you protest to General Hoepner?

A. General Hoepner was my superior—my next higher headquarters.

Q. In what manner did you make your protest?

A. I thought that the order was unbearable, and General Hoepner agreed with me.

Q. Do you know what steps General Hoepner took in turn after your protest had been made?

A. General Hoepner held the same views I did and communicated his repudiation of the order to the army group of Field Marshal von Leeb.

Q. Did your protest or rather was the protest of General Hoepner, successful in regard to the Commissar Order?

A. No.

Q. How did you hear anything about the result of your protest?

A. General Hoepner communicated to me that his protest had failed.

Q. What did you do after learning this?

A. Thereupon I informed my commanding officers of the Commissar Order in the course of the conference.

Q. What commanding officers?

A. First perhaps I may make a general statement about my attitude towards the Commissar Order, what actually prompted me to protest against it and to my actions afterwards. The Commissar Order was repugnant to me, in view of my inward attitude, it was not comprehensible to me. For me, a commissar was a soldier who wore a uniform and who carried arms and fought like anybody else. Nor did the Hitler conference of March influence me, in which details about the atrocities committed by the commissars in Finland and other places were discussed—because I did not attend this conference. I thought that it was definitely wrong that my troops were to shoot commissars who were prisoners of war. I thought it would be detrimental to discipline to a very high degree, because this latitude might easily encourage excesses of other types and that, in view, should not be permitted to happen. For that reason, I prohibited the execution of the Commissar Order. During a conference in Allenstein to which I had called the commanders of the divisions and the Ia [operations] officers of the divisions subordinate to me, I expounded my point of view. This conference was certainly attended by the commanders of the two Panzer divisions and their Ia officers. That was the 1st and 6th Panzer Divisions. According to my recollection, it was also attended by the commanding officer and the Ia officer of the 269th Infantry Division. Whether the commander of the 36th Motorized Division also attended, I don't know for certain. I brought the Commissar Order to the attention of the commanding officers and added something to this effect, "We hope that, as in France, we shall be advancing rapidly and capture many prisoners. We shall, therefore, have no time to sort out commissars. Discipline is to be paramount. This order will not be executed in my corps." That is the same statement, the same testimony I made two years ago when I was a voluntary witness in the trial against the OKW and the General Staff of the German Armed Forces.

Q. You have just stated, General, that you issued an order to your divisional commanders simultaneously with the Commissar Order saying that, "the Commissar Order will not be carried out in my corps". Now, if you did not wish the Commissar Order to be carried out, why did you announce the Commissar Order orally to your divisional commanders?

A. The purpose was not to promulgate the Commissar Order but the main purpose was to make my prohibition known, and I had to do that on the following grounds: the 269th Division had only been placed under my command shortly before the outbreak of the war against Russia, that is, at the beginning of June 1941. Until that time they had been committed in defending the frontier and subordinate to other superior officers. Until that time, the

36th Motorized Infantry Division had been in the zone of interior, had also had different superiors, and to the very last day troops of all kinds were being made subordinate to our divisions, for instance, the army engineers, the army artillery detachments and so forth. I couldn't know whether the Commissar Order had already been made known to all these elements, and in what manner that had happened. Therefore, I had to assume that, at least, some of these commanding officers already knew this Commissar Order, without my prohibition of course, therefore, it was the purpose of this conference to make known my prohibition. I can state that the officers attending the conference agreed with me fully.

Q. I now put to you the documents which deal with the reports about commissars killed. First of all, NOKW-1569, Prosecution Exhibit 72.¹ Will you please tell the Tribunal what this document is about?

A. This document is a message from some agency of the 269th Infantry Division which was subordinate to me—a radio message dated 9 July 1941, addressed to the XLI Panzer Corps. Contents—34 Politruks liquidated.

Q. What does the term "Politruk" mean?

A. "Politruk" actually in its proper meaning is the commissar attached to every Russian company. Commissars were attached only to higher levels from the level of the battalion upwards or from the regiment upwards—I don't know for certain.

Q. Was this report submitted to you at the time?

A. No. It does not bear my initial.

Q. I will now put to you NOKW-1570,² Prosecution Exhibit 73. Will you please tell the Tribunal what this document is about?

A. This document, once again, is a radio message, but from the headquarters of the XLI Panzer Corps addressed to the Panzer Group, also dated 9 July 1941. Contents—"until 8 July, 97 Politruks liquidated".

Q. Was this report of the Panzer Corps brought to your attention at the time, or was it approved by you?

A. Nor does this report bear my initial.

Q. You stated previously that you had prohibited the execution of the Commissar Order in the area of your XLI Panzer Corps. You had expressly forbidden its execution according to the documents which I have just put to you, nonetheless, commissars

¹ Document reproduced above in this section.

² Ibid.

were liquidated by your Panzer Corps. How do you account for this discrepancy between your order and these reports?

A. One day, I can't recall the exact date, the chief of staff or Ic officer told me that there had been an admonition to submit reports about commissars killed, as provided for by the Commissar Order. As a result, I was consulted as to what was to be done. At the time I decided that we had to report figures. Whether actually I said, "report the figures and ask subordinate units to report to you the number of commissars fallen in battle" or "fictitious figures were to be reported," I don't recall. At any rate, I did agree that we were to juggle with the figures in order to deceive higher headquarters. These figures contained in these reports are not commissars who were shot pursuant to the Commissar Order, they were not liquidated, that is, killed after capture, they are fictitious figures.

* * * * *

Q. I will now put to you Document NOKW-1674, Prosecution Exhibit 74.* This document concerns a report of the Panzer group made to the army group and likewise deals with liquidated commissars. How do you account for the figure 101 contained in this report?

A. I don't know. This figure was not stated by my Panzer corps but by the Panzer group. According to the date, that is, 10 July, it is probable that this figure also includes the statistics of the Panzer corps.

Q. I will now put to you Document NOKW-1587, Prosecution Exhibit 79. It is the order calling for regular reports about commissars liquidated. What do you glean from this document?

A. It states that the Panzer corps issued an order to the 1st Panzer Division to report about the liquidation of Politruks. The wording of the version here, in my conviction, is special evidence in support of the view that I did not call for the report on commissars liquidated. The wording is as follows and I quote: "Panzer Group 4 requests reports at certain intervals about Politruks liquidated. The next report to be made by the third of August."

The routine order which I would have had to give and which I would have issued under normal conditions would have read: "The division has to report Politruks liquidated." If you wished to express that you did not identify yourself with an order, it was customary to quote the agency calling for the report. Hence I chose the wording—not I, not my corps, but, "the Panzer Group re-

* Ibid.

quests", the report; now you know what you have to do. That is how this wording of mine is to be explained in the context.

Q. Do you know whether, by virtue of this order, regular reports were made by the subordinate agencies, and do you know whether these reports were channelled from you to Panzer Group 4?

A. I think that is probable.

Q. When on 8 October, you assumed the command of Panzer Group 3, after you had until that time been in command of the XLI Panzer Corps, what about the execution of the Commissar Order in your new capacity?

A. At that time, the Commissar Order's significance had already been eclipsed. One no longer referred to it. The Commissar Order had long been known to the Russians and the commissar had already taken off his commissar's uniform and could not be distinguished from an ordinary Russian officer. Thus we could no longer ascertain, in view of the large number of prisoners that we took, who among them was a commissar. Thus, the whole question of the Commissar Order was without any substance.

Q. How long was the Commissar Order still in force, that is officially?

A. General von Gersdorff, a witness here, testified that with Army Group Center, to which I was subsequently attached, the Commissar Order was rescinded in the spring of 1942, in connection with the battles which took place behind the front lines.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. NIEDERMAN: I would like to discuss with you again NOKW-1569, Prosecution Exhibit 72.* You will recall that is a report from the 269th Infantry Division to the XLI Corps reporting liquidation of Politruks. I would like you to look at that document again.

DEFENDANT REINHARDT: Yes.

Q. What does the word "liquidation", as there used in its normal sense, mean?

A. In the German here it states "erledigt"; the word "erledigt" is the same word which is contained in the Commissar Order itself. Therefore it was used accordingly in this report, and here it means "to be killed".

* Ibid.

Q. Assuming for the moment, that this is an authentic report, just for purposes of our discussion, there would be no doubt in your mind from reading this report that these Politruks were liquidated, that is, not killed in battle, but executed pursuant to the Commissar Order; is that right?

A. Yes. That is correct.

Q. You have stated that you have no recollection of ever seeing this report and, I think, you based that statement on the fact that this had no initial of yours on it; is that right?

A. Yes.

Q. But even if you had seen this report, it wouldn't have your initials since this is the copy that was retained by the 269th Infantry Division and not the copy sent to the XLI Corps.

A. Well, of course whatever remained with the 269th Division could not bear my initials.

Q. That is right. Now, doesn't it seem peculiar that if you requested fictitious reports that the receipt of such reports was not enough concern in your organization to demand that they be shown to you?

A. After the decision had been taken that the obligation to make reports could be complied with by just filling in figures, the reports which then came in were unimportant for me, and they certainly weren't submitted to me after that because the Ic had my decision and approval for it.

Q. I would like to know when and how did you advise this division that they should send fictitious reports to you.

A. Which division?

Q. We are now discussing this particular report by the 269th Infantry Division which you testified was in fact fictitious. When did you advise that division to send you fictitious reports?

A. This instruction was probably given by my Ic directly to the Ic of the 269th Division after my decision.

Q. Then, in effect, you merely now say you advised your Ic to procure fictitious reports for you?

A. The Ic of the corps was then responsible for this juggling of figures, but it could be and it is probable that during my visits to the front I talked to the divisional commanders about this, but I don't know.

Q. In any event, there was no general conference; there was no general order to all the units under your command to send fictitious reports to you?

A. No. That was an internal juggle of figures on the part of the Ic officers. The troops knew nothing about this because that would have been a dissemination of this juggling, which was by no means to become public.

Q. When you also requested the 1st Panzer Division to send reports to you, did you advise them to send fictitious reports?

A. The same. They were subordinate to me.

Q. You mean that you advised them that the reports you were requesting were to be, in fact, fictitious reports?

A. Yes. The Ic would have passed it on to the Ic of the 1st Panzer Division like that, yes.

Q. When did you assume command of the 3d Panzer Group?

A. On 9 October 1941.

Q. Did you do anything in regard to the Commissar Order when you took command of that organization?

A. It was no longer necessary at that time. Almost nobody talked about the Commissar Order anymore. Whether I talked to the commander of the new LVI Corps, which was then placed under my command, about the Commissar Order I don't know. In any case, nobody thought any more about the execution of the Commissar Order at that time.

Q. That was in October of 1941?

A. Yes.

Q. I would like to show you a document, NOKW-2356, which is Prosecution Exhibit 65. You will notice that this is an extract of a report from the 35th Infantry Division, which I believe was under your command for a period of time. That is true, is it not?

A. The 35th Infantry Division was subordinate to me for a few days in January 1942, that is correct, but it was only a few days; how many days I can't remember, but only a few days, that I know for sure.

Q. Well, I rather think it was for a few weeks, but I am willing for the moment to say it was a few days. You will note from this activity—

A. No. It was not a few weeks, it was only a few days. Please look it up in the documents which are available.

Q. I don't intend to argue with you, Witness. The evidence is in. Now, I would like to show you this activity report. "The reason for the will to fight will be found primarily in the fact that well in advance the enemy learns how the commissars and political

leaders are treated when captured by the Germans. A mistake of drawing attention has been made even in German propaganda leaflets. It would be better to keep the treatment of the commissars a secret. It would have sufficed to transport them separately to the rear, to a camp especially established for the purpose by the corps and to take them to task only then." And now, after reading that report, there can be no doubt in your mind or in my mind, can there, that this division, at least, knew of the treatment of commissars, as did the Russians themselves?

A. It seems so. Yes.

Q. Isn't it strange that everyone apparently knows of the execution of commissars and yet, as far as any testimony we can get here, no commissars were executed?

A. What happened in the 35th Division in this direction, I do not know. This is an activity report from 26 June 1941, until 10 November 1942. In the introductory lines it states "During the winter retreat of 1941-1942 all documents of the Ic section were destroyed by enemy action. After careful work, as far as possible the records were newly compiled." Therefore, subsequently, I can almost say in November 1942, after the records had been destroyed, something was compiled from memory again—

Q. Now, then,—

A. But the period of time it covers, whether from the beginning of the war or for months, cannot be seen from the report at all.

Q. The killing of commissars was so well known that it didn't need any documents even to recall it to memory of these people. They could make the report from their memory, is that right?

A. Certainly, the 35th Infantry Division found out about the Commissar Order at the time and here wrote down their experiences; but, as I said, the 35th Infantry Division was subordinate to me for a few days only, six months after the war had started. What happened in the first six months of the war within that division I really do not know.

* * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT HOTH*

DIRECT EXAMINATION

* * * * *

DR. MUELLER-TORGOW (counsel for the defendant Hoth): Why

* Complete testimony is recorded in mimeographed transcript, 29-30 April; 3-4 May 1948, pp. 3036-3239.

did you then pass on this order? [Referring to the Commissar Order.]

DEFENDANT HOTH: The order was signed by Field Marshal von Brauchitsch. I gathered therefrom that the attempts of the Field Marshal not to have the order issued had failed. As a military commander, I was obliged to pass on the order. There was no doubt about this. I could not, just simply not pass it on in view of my position. That would have constituted disobedience and would have had the necessary consequences. It would, of course, have led to my discharge. However, really, there would have been no point in it, because you really must not believe that a man like Hitler with his demon-like will power would have been detracted from his path by the resistance of generals. That is quite impossible, in view of Hitler's character. The consequence would merely have been that my successor and the whole execution of the order would have been strictly supervised and watched by Hitler and his agencies. All attempts simply to let the order peter out, or at least to modify the effects of it, would no longer have been possible. That would have been the only result of a refusal.

However, I saw another reason also, of a more practical nature. I said earlier that when the operations started the Panzer group had subordinate to it two infantry corps, and they fought shoulder to shoulder like a regiment with the Panzer divisions. That was done for quite definite military reasons. They were even partially subordinate to the Panzer Divisions. I knew that the 9th Army passed on this order and the infantry corps, which were subordinate to me, received it from the 9th Army.

Now, if I had not passed on the order, the situation would have resulted that my troops would not have received the order, but would have heard of it from their neighbors, because such things usually spread. Then they would not have known exactly what to do and there would have been more latitude for arbitrary actions. Therefore, in my position, it would have been purposeless not to pass on the order.

Q. General, did you know Article 47 of the Military Penal Code, to the effect that orders are not to be carried out which have a criminal intent?

A. I certainly knew that article, but in these considerations it did not play any part whatsoever. You must realize that this order was issued, as I knew, by the head of the State, who was also the Supreme Military Commander. Furthermore, a head of state in which at that time I placed full confidence. There was no reason, after all, why my confidence in him should be shaken at that time. He issued an order; it was quite impossible for me to assume that

he intended a crime in issuing this order. Even today I think that that was not really Hitler's intention; I know his intention really was to protect the troops against the commissars. I do not think that Hitler had any criminal intent. Of course, seen from the legal point of view, that does not alter the fact that a crime was committed. I do not want to dispute that. As far as I was concerned, however, at that time Article 47 did not come into the question, because an order from the head of the State was involved. And Article 47 is intended to protect the State against orders or instructions which are against the interest of the State; if, however, the head of the State issued an order to me, then I have no reason to assume that that order asks me to commit a crime.

Q. It was your opinion that, as far as you were concerned, the only practical possibility was to mitigate the effect of the order, is that correct?

A. Yes.

Q. And how did you endeavor to mitigate the order or the effects of it?

A. I very much regret, as I said, that I cannot remember nor do I have any indications as to what I said to the commanding generals when I passed on the order orally. Unfortunately, I can make no statements about this. But I do know that I in no way supported the order by additions. If an order is issued to the troops, and an order of such importance, it was customary that one adds an additional remark such as stating that strictest observance of the execution of this order was demanded. I intentionally did not add any such remarks. I quite recognized that the order would be met with repugnance and protest in the troops and that one would have to urge and press the troops to execute the order. The troops knew me and I knew all the troop commanders of the Panzer divisions under me at that time. They all knew very well what I thought of such orders. I could rely therefore on them to carry out this order which was sent to them without any addition in the way in which they were to carry it out, namely, not to carry it out at all. I could rely on them to interpret it in the right way. I also know that my chief of staff who was, unfortunately, killed in battle, answered an inquiry by the chief of staff of one of the corps to the effect that the commander of the Panzer group—and that is I—did not approve of the order. Thereupon he was satisfied and just put down the receiver—he had his information and the [his] Commanding General—with whom I am acquainted—knew for certain what I think about the matter.

Q. You said, General, that you mitigated the order simply by not adding any additional remarks to it. Would it not have seemed

better expressly to add a remark which mitigated the order, which, perhaps, could have expressed that only such commissars are to be shot who have been convicted of having committed individual offenses against international law?

A. If I had added such a remark like that, it would have been the same as rescinding the order and it would have had all the results which I described. Whether I did make such a remark orally at least on that line, I cannot really tell you.

Q. Are the reports concerning the shootings of commissars consistent with the facts?

A. It is difficult to decide. These reports came from the front line. Whether these commissars were actually shot or whether they were killed in action could not be checked by anyone. Therefore, the troops could act more or less as they deemed right and it was their attitude and training and feeling that one does not kill a captured enemy. The additional factor was that the troops knew, of course, that from the top level there were demands for reports about the killing of commissars. That had been the same in other campaigns. It is easily possible therefore, that if commissars were killed in action the deaths were reported in such a way that one could entertain doubt as to whether they were killed in action or executed. It is also possible that at some times reports were made intentionally which were false. That is, of course, a matter which is very unpleasant seen from the military aspect and which in no way supports the discipline among the troops. Unfortunately, however, in the National Socialist State sometimes we were forced to resort to such very undesirable measures. Such steps brought about many interval conflicts for us.

Q. You talked about the killing of captured enemies. You meant captured commissars, didn't you?

A. Yes.

B. Treatment of the Population in the East

I. THE BARBAROSSA JURISDICTION ORDER

a. Introduction

Paragraph 71 of the indictment charged the defendants Warlimont and Lehmann with participation in the drafting and preparation of the, "Order Concerning the Exercise of Military Jurisdiction in the Barbarossa Area and Special Measures to be taken by the troops." (*Document C-50, Pros. Ex. 594.*) This order was commonly termed the "Barbarossa Jurisdiction Order." The order

was conceived in the course of the preparations for "Case Barbarossa," the code word for the invasion of Soviet Russia. This order was issued and first distributed more than one month before the actual invasion of Soviet Russia.

In section b, contemporaneous documents concerning the Barbarossa Jurisdiction Order are followed by testimony of the defendant Lehmann. Many of the references in contemporaneous documents concerned with the treatment of the population in the East in later sections refer to this order or to policies declared in this order.

b. Formulation and Distribution

PARTIAL TRANSLATION OF DOCUMENT C-50 PROSECUTION EXHIBIT 594

THE BARBAROSSA JURISDICTION ORDER, 13 MAY 1941, WITH
TRANSMITTAL LETTERS FROM THE HIGH COMMAND OF
THE ARMED FORCES, 14 MAY 1941, AND FROM THE
NAVAL WAR STAFF, 17 JUNE 1941

[stamp] Top Secret

Fuehrer Headquarters, 14 May 1941

[Handwritten]

Submit to Naval War Staff

[initial] S [Schniewind]

[Stamp]

Matter for Chiefs

Through officer only

23 copies—7th copy

High Command of the Armed Forces
Armed Forces Operations Staff
Dept. National Defense, (IV Qu.)
No. 44718/41 Top Secret, Chief-matter

Ia [Illegible initial]

Ig

If [Illegible initial] 6 June

Ii [Illegible initial]

19 May

[Stamp]

High Command of the Navy
I Op 00663/41
Received: 15 May 1941

Enclosures: I G * * *
I Distribution (attached)

Subject: The exercise of military jurisdiction in the "Barbarossa" area and special measures to be taken by the troops.

[Handwritten] Later to Ic. Clear case!

But this is not easy to decide upon by the officer in charge when troops threaten to get out of hand. I. i. [Illegible initial] 17 May

[Illegible initials] 19 May

Enclosed please find Fuehrer decree on the exercise of military jurisdiction in the "Barbarossa" area and special measures to be taken by the troops, *if possible further transmittal will not be made before 1 June 1941.*

The Chief of the High Command of the Armed Forces.

By Order:

[Signed] VON TIPPELSKIRCH*

Group North	}	[Handwritten]
Admiral Norway		have received copy
Station Baltic		with 1045/41
Comdr. of Coastal Defense, Liaison Staff		[Illegible initials]
Naval Commanders "C" & "D"		

* * * * *

Distribution:

Commander in Chief of the Army (Operations Section), 1st copy
Commander in Chief of the Army (Generalquartiermeister),
2d-3d copies

High Command of the Army (Chief of Army Equipment and
Commander of the Replacement Army), 4th copy

Commander in Chief of the Air Force (Air Force Operations
Staff), 5th copy

Commander in Chief of the Air Force (Generalquartiermeister),
6th copy

Commander in Chief of the Navy (Naval War Staff), 7th copy

High Command of the Armed Forces:

Armed Forces Operations Staff, 8th copy

Dept. National Defense, Chief, 9th copy

Dept. National Defense, I H, 10th copy

I L, 11th copy

I K, 12th copy

IV/Quartiermeister, 13th copy

II, 14th copy

War Diary, 15th copy

* Chief of Quartiermeister Branch, Department National Defense of the High Command of the Armed Forces.

Armed Forces Legal Department, 16th copy
Armed Forces Propaganda, 17th copy
Office Foreign Counter Intelligence, 18th copy
Counter Intelligence III, 19th copy
Extra copies, 20th–23d copies

Berlin, 17 June 1941

Naval War Staff

File No. 1st Naval War Staff Ia 001049/41 Matter for Chiefs.

[Stamp] Top Secret

[Stamp] Through officer only

[Handwritten] 7 copies made and forwarded 17 June 1941

[Illegible initials]

Decree

I. Send letters to:

Group North, Control Nos. 1–2

Admiral Norway, Control Nos. 3–4

Station Baltic, Control Nos. 5–6

Commander of Coastal Defense, Control Nos. 7–8

Liaison Staff Finland, Control Nos. 9–10

Naval Commander "C", Control Nos. 11–12

Naval Commander "D", for information Control Nos. 13–14

Please find enclosed a Fuehrer decree on the exercise of military jurisdiction in the "Barbarossa" territory and on special measures to be taken by the troops.

[Handwritten]

In folder OKW (Supreme Command of Armed Forces)

Directions OKW 44718/41

[Illegible initials]

[Handwritten] 35 copies made.

II. Make copies of Fuehrer decree of 13 May and attach two copies each to the letter under I.

[Handwritten:]

Extra copies Control Nos. 15 to 30

III. I Op.

1/Naval War Staff

BY ORDER Ii

By Order: Ia

After dispatch

[Illegible initials]

[Illegible initial] 18 June

[Handwritten] Dollman

distribute

follow-up matters

accordingly

Fuehrer Headquarters, 13 May 1941

The Fuehrer and Supreme Commander of the Armed Forces.
[Handwritten] One copy for Group South sent
15 December 1941 [Illegible initials].

*Decree concerning the exercise of military jurisdiction in the
"Barbarossa" area and special measures to be taken
by the troops*

The armed forces jurisdiction serves primarily the *maintenance of discipline*.

The further extension of the eastern theater of operations, the battle strategy conditioned thereby, and the peculiar qualities of the enemy, confront the courts of the armed forces with problems which, being shortstaffed, they cannot solve while hostilities are in progress, and until some degree of pacification has been achieved in the conquered areas, unless jurisdiction is confined, in the first instance, to its main task.

This is only possible if *the troops defend themselves* relentlessly against any threat from the enemy population.

The following regulations are, therefore, issued for the "Barbarossa" area (operational area, army group rear area and the area of political administration):

I

Treatment of offenses committed by enemy civilians

1. Until further notice the courts martial [Kriegsgerichte] and the summary courts martial [Standgerichte] will not be competent for *offenses committed by enemy civilians*.

2. *Guerrillas* will be ruthlessly liquidated by the troops, either in combat or in flight.

3. Similarly, *all other attacks by enemy civilians on the armed forces*, its members and employees, will be suppressed on the spot by the troops, using the most extreme methods, until the assailants are annihilated.

4. Where such measures have been neglected or were not at first possible; *persons suspected of an offense will be brought immediately before an officer. This officer will decide whether they are to be shot.*

On the orders of an officer, with the powers of at least a battalion commander, *collective coercive measures* will be carried out immediately against *localities* from which cunning or malicious attacks are made on the armed forces, if circumstances do not permit a speedy determination of individual perpetrators.

5. It is *expressly forbidden* to detain suspects in order to transfer them to the courts after the reinstatement of jurisdiction over the indigenous population.

6. The commanders in chief of the army groups may by agreement with the competent naval and air force commanders *reintroduce military jurisdiction for civilians*, in areas which are sufficiently pacified.

For the area of the "*political administration*" this order will be given by the Chief of the Supreme Command of the Armed Forces.

II

Treatment of offenses committed against inhabitants by members of the armed forces and its employees

1. With regard to offenses committed against *enemy civilians* by members of the armed forces and its employees, *prosecution is not obligatory* even if the deed is simultaneously a military violation or crime.

2. When *judging such deeds*, it must be borne in mind, whatever the circumstances, that the collapse in 1918, the subsequent suffering of the German people and the fight against national socialism which cost the blood of innumerable supporters of the movement, were caused primarily by Bolshevist influence and that no German has forgotten this.

3. The judicial authority [Gerichtsherr] will, therefore, decide in such cases whether disciplinary punishment is indicated, or whether *judicial proceedings* are necessary.

In the case of offenses against indigenous inhabitants, the judicial authority will order a *court martial* only if *maintenance of discipline or security of the troops* call for such a measure. This applies for instance to serious offenses based on lack of sexual restraint, or resulting from a criminal tendency, or indicating that the troops are threatening to become out of hand. As a rule offenses resulting in the senseless destruction of billets, stores or other captured material to the disadvantage of our forces will not be judged more leniently.

The order to institute investigation proceedings requires the signature of the judicial authority in each individual case.

4. *Extreme caution* is indicated in assessing the credibility of statements made by enemy civilians.

III

Responsibility of military commanders

Within their sphere of competence military commanders are *personally* responsible for ensuring that—

1. Every officer of the units under their command is instructed promptly and with the utmost emphasis on the principles set out under I above.

2. Their legal advisers [Rechtsberater] are notified promptly of these instructions and of the *verbal information which elucidated the political intentions of the leadership to the commanders in chief.*

3. Only these sentences are confirmed which are in line with the political intentions of the leadership.

IV

Security

Once the camouflage is lifted this decree will be classified as "Top Secret" only.

BY ORDER:

Chief of the High Command of the Armed Forces

Signed: KEITEL

Certified:

[Signed] DRESSEL
Major, GSC

PARTIAL TRANSLATION OF DOCUMENT VON ROQUES 49 VON ROQUES DEFENSE EXHIBIT 9

BRAUCHITSCH ORDER AND OKH DISTRIBUTION LIST, 24 MAY 1941,
AMPLIFYING BARBAROSSA JURISDICTION ORDER*

Headquarters, High Command of the Army, 24 May 1941

[Stamp] Top Secret

340 copies

The Commander in Chief of the Army
File No.

133d copy

General for Special Missions with the CinC of the Army
(Group Legal Affairs)

No. 80/41 Top Secret, Matter for Chief

Special distribution list

[Stamp]

Matter for Chief

Through officer only

Subject: Treatment of enemy civilians and criminal acts of members of the armed forces against enemy civilians

* The Barbarossa Jurisdiction Order is included in the preceding Document C-50, Prosecution Exhibit 594.

Attached Fuehrer decree is [hereby] announced. It is to be distributed *in writing* down to the commanders with jurisdiction of their own; beyond that, the principles contained in it are to be made known *orally*.

Supplements to I

I expect that all counterintelligence measures of the troops will be carried out energetically, for their own security and the speedy pacification of the territory won. It will be necessary to take into account the variety of ethnic strains within the population, its over-all attitude, and the degree to which they have been stirred up.

Movement and combat against the enemy's armed forces are the real tasks of the troops. It demands the fullest concentration and the highest effort of all forces. This task must not be jeopardized in any place. Therefore, in general, special search and mopping-up operations will be out of the question for the combat troops.

The directives of the Fuehrer concern *serious* cases of rebellion, in which the most severe measures are required.

Criminal acts of a minor nature are always in accordance with the combat situation, to be punished according to detailed orders from an officer (if possible, a post commander) by resorting to *provisional measures* (for instance, temporary detention with reduced rations, roping [to a tree], assignment to labor).

The CinC's of the army groups are requested to obtain my approval prior to the reinstatement of armed forces jurisdiction in the pacified territories. The commanders of the armies are expected to make suggestions in this respect in time.

Special instructions will be issued about the treatment to be given to political dignitaries.

Supplements to II

Under all circumstances it will remain the *duty of all superiors*, to prevent arbitrary excesses by *individual* members of the army and to prevent *in time the troops becoming unmanageable*. It must not result that the individual soldier commits any act *he* thinks proper toward the indigenous population; he must rather feel that in every case he is *bound by the orders of his officers*. I consider it very important that this be clearly understood down to the lowest unit. *Timely action* by every officer, especially every company commander, etc., must *help* to maintain discipline, the basis of our successes.

Occurrences with regard to "I" and "II" and which are of special

importance are to be reported by the troops to the High Command of the Army as special events.

[Signed] VON BRAUCHITSCH

Top Secret

Distribution:

	Copy
Army Group B, with copies for the Commander of Army Group Rear Area 102, 221st, 286th, and 403d Security Division, and for 14 Feldkommandanturen.	1-21
2d Army Command, with copies for Corps Hq., Divs., etc.	22-36
4th Army Command, with copies for Corps Hq., Divs., etc.	37-71
18th Army Command, with copies for Corps Hq., Divs., etc.	72-89
Army Command Norway, with copies for Corps Hq., Divs., etc. (insofar as it is necessary that they be informed).	90-95
Panzer Group 2, with copies for Corps Hq., Divs., etc.	96-110
Panzer Group 3, with copies for Corps Hq., Divs., etc.	111-124
Panzer Group 4, with copies for Corps Hq., Divs., etc.	125-129
Sector Staff Silesia, with copies for the Commander of Army Group Rear Area 103, 213th, 444th, and 454th Security Division, and for 14 Feldkommandanturen.	130-150
Sector Staff East Prussia, with copies for the commander of Army Group Rear Area 101, the 207th, 281st, 285th Security Division, and for 14 Feldkommandanturen.	151-171
Sector Staff Staufen, with copies for Corps Hq., Divs., etc.	172-196
Fortress Staff Blaurock, with copies for Corps Hq., Divs., etc.	197-216
Sub Sector East Prussia I, with copies for Corps Hq., Divs., etc.	217-236
Operational Staff Gotzmann, with copies for Corps Hq., Divs., etc.	237-254
Operational Staff R.G., with copies for Corps Hq., Divs., etc.	255-274
Chief Construction Group South, with copies for Corps Hq., Divs., etc.	275-286
High Command of the Army, Adjutant of the CinC of the Army	287

High Command of the Army, Adjutant of the Chief of Staff of the Army	288
High Command of the Army/Oberquartiermeister I	289
High Command of the Army/Operations Section	290
High Command of the Army/Organization Section	291
High Command of the Army/Army Affairs Section	292
High Command of the Army/Generalquartiermeister Section II	293
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PARTIAL TRANSLATION OF DOCUMENT NOKW-209
PROSECUTION EXHIBIT 590

LETTER FROM DEFENDANT LEHMANN TO DEFENDANT WARLIMONT'S
OFFICE, 28 APRIL 1941, TRANSMITTING LEHMANN'S DRAFT
OF BARBAROSSA JURISDICTION ORDER

28 April 1941

Armed Forces Legal Department
30/41 Top Secret, Matter for Chiefs

Matter for Chiefs
[Stamp] Top Secret

To Chief Armed Forces Operations Staff
Chief National Defense

[Handwritten] one copy each [Initial] W. [Warlimont]
28 April

Subject: Barbarossa

I herewith submit draft of the directive concerning the juris-
diction of courts martial in the "Barbarossa" area.

[Signed] LEHMANN

The Fuehrer and Supreme Commander of the Armed Forces
30/41 Top Secret, Matter for Chiefs,
Armed Forces Legal Dept.

2d copy

Matter for Chiefs
[Stamp] Top Secret

Subject: Exercise of military jurisdiction in the "Barbarossa"
area (operational area, army rear area and political
administration area)

I

1. Guerrillas* will be ruthlessly liquidated *by the troops* either in combat or in flight.

2. Other attacks by enemy civilians against the armed forces, their members, and their auxiliaries will be dealt with by the troops on the spot, with the same determination and with every means at their disposal, until the attacker is annihilated.

II

1. Military law and its enforcement agencies [Wehrmacht-gerichtsbarkeit] serve primarily the enforcement of discipline. Punishable acts committed against the troops will be dealt with by the troops themselves as set out under I. Only in those exceptional cases in which this has not been done, will judicial prosecution take place.¹

[Handwritten] No.

2. For the rest, punishable acts committed by enemy civilians will only be prosecuted by court martial if this is indispensable for political reasons.²

¹ In previous directives as approved by the Fuehrer, it was provided in addition that it should be possible to bring the culprit before a court immediately, and that the guilt of the culprit must be so obvious that he could be sentenced immediately. All other offenses committed by indigenous civilians were to be transferred to the nearest office of the Reich Leader SS.

Since, contrary to the previous assumption, sufficient number of offices of the Reich Leader SS will not be available, the only alternative left is, therefore, to have civilians, whose guilt cannot be proved immediately, nevertheless tried by the courts, or to have them shot by the troops. If they are handed over to the courts, the courts must decide on guilty or impossibility to prove guilt, and acquit the defendant in the latter case. I stress this particularly.

² This sentence, too, was not contained in the previous directives, but it seems necessary. Example—A Bolshevik shoots a pro-German Ukrainian. The sentence can only be dispensed with if the troop commanders undertake the responsibility for dealing with such cases without court procedure in conformity with the intentions of the political leadership.

* In the original document the term is "Freischaerler."

III

1. In case of offenses committed by members of the armed forces and their auxiliaries against enemy civilians, prosecution is not mandatory, even though the offense is simultaneously a military offense or crime.

2. When judging such acts, it must be considered that the collapse of 1918, the subsequent period of suffering endured by the German people, and the struggle against national socialism, which caused a great number of casualties among the members of the movement, were mainly brought about by Bolshevist influence, and that no German has forgotten all this.

3. The [military] judicial authority will therefore consider in such cases whether disciplinary punishment is indicated or whether judicial proceedings are necessary. The judicial authority will, in cases of offenses against indigenous civilians, authorize court martial proceedings only if this is called for in the interests of discipline or for the security of the troops. This applies, for instance, to serious offenses based on utter lack of sexual restraint or which are caused by criminalistic tendencies and further, offenses resulting in the senseless destruction of billets, stores or other captured materials to the disadvantage of our forces.

Authorization of investigation proceedings requires the signature of the judicial authority in each individual case.

4. Utmost caution is indicated when considering the credibility of statements by enemy civilians.

IV

Within the jurisdiction of their commands, it is the *personal* responsibility of the military commanders to ensure:

1. That all officers of the units subordinate to them are instructed concerning the principles set out under I in good time and with the utmost emphasis.

2. That their legal advisers are informed *in good time* of these directives and of the oral information which elucidates the leadership's political intentions to the commanders in chief.

3. That only those sentences are confirmed which are in line with the political intentions of the leadership.

BY ORDER:

The Chief of the OKW

PARTIAL TRANSLATION OF DOCUMENT 877-PS*
PROSECUTION EXHIBIT 53

ARMY HIGH COMMAND DRAFT OF BARBAROSSA ORDER, MAY 1941,
ADDRESSED TO ARMY AND ARMY GROUP COMMANDERS

[Stamp] Draft

The Commander in Chief of the Army
File Number General for Special Missions with
Commander in Chief of the Army
No. 75/41 Top Secret Matter for Chiefs
[Stamp] Top Secret

[Stamp]
Matter for Chiefs
Through Officer Only

May 1941
15 copies—copy

To:

The Commanders in Chief of Army Groups A, B, and C
The Commanders of the 2d, 4th, 6th, 9th, 11th, 16th, 17th, 18th
Army, and the Army Command Norway

Subject: Treatment of enemy inhabitants and punishable offenses
by members of the armed forces against enemy in-
habitants in the zone of operation, "Barbarossa"

The vast extent of the Eastern theater of operations, the combat methods conditioned thereby, the specific character of the Eastern enemy *require a particularly comprehensive and effective security of the combat troops* in relation to the enemy armed forces and to the enemy civilian population, and also a speedy pacification of the conquered territory.

Of course *mobility and combat* with the enemy armed forces remain *the primary mission of the troops*; this requires greatest concentration and fullest commitment of all forces. The troops must not let themselves be diverted from this primary mission.

On the other hand the troops will frequently be the first and only element to find themselves in a position to take timely effective measures for their own security and for the pacification of the country. Here one must state, that this time in addition to the usual enemies which the troops have to face, they are opposed by the bearer of Jewish-Bolshevik ideology who is an especially dangerous and seditious element among the civilian population. There is no doubt that he will employ his weapon of undermining the morale wherever he can insidiously and from ambush against

* The covering letter from General Mueller transmitting this draft to defendant Warlimont's office (first part of Document 877-PS, Pros. Ex. 53) is reproduced above in section A 2.

the German Armed Forces who are fighting and pacifying the country. That is why the troops have the right and the duty to protect themselves fully and effectively from these demoralizing forces.

Pursuant to directives given to me by the Fuehrer and Supreme Commander of the Armed Forces I, therefore, order the following for the execution of operation "Barbarossa":

I. *Treatment of enemy inhabitants*

Attacks of any kind by indigenous inhabitants against the armed forces are to be *suppressed by force of arms* immediately, ruthlessly, and by the most extreme means.

Indigenous inhabitants participating or *intending to participate* in the hostilities as *guerrillas*, who, by their appearance, indicate an immediate *threat to the troops* or who, *by any action whatsoever, revolt* against the German Armed Forces (for instance attacks against armed forces personnel or armed forces property, sabotage, resistance) are *to be shot in combat or in flight*.

Whenever such criminal elements cannot be eliminated in this way, they are to be brought to an officer immediately. He will decide whether they are to be shot.

Collective coercive measures will be carried out *against localities* from which insidious and treacherous attacks of any kind have emanated, pursuant to orders from an officer with the rank of at least a battalion, etc., commander, if the circumstances are such that a speedy determination of the individual perpetrators cannot be expected.

It is the law of self preservation and the duty of all commanding officers to proceed with an iron hand without delay against cowardly attacks from a misguided population.

Special regulations will be issued concerning the treatment of political functionaries, etc.

II. *Alleviation of mandatory prosecution of punishable offenses by army personnel against enemy inhabitants*

1. Punishable offenses committed by army personnel under *provocation because of atrocities* or the *undermining of morale* by bearers of the Jewish-Bolshevik system, are *not to be prosecuted* unless, in an individual case, intervention is necessary in order to maintain discipline.

Under all circumstances, it remains the task of all superiors to prevent arbitrary excesses by *individual* members of the army and to prevent the troops getting out of hand. The individual soldier must not reach the point where he acts arbitrarily against

inhabitants in the way he thinks is right, but in every case he is *subject to the orders of his superiors*.

In those cases in which the motive for the provocation is not shown until the main trial before a court martial in the field, the commanders and commanding officers who have been appointed by me as confirming authorities are responsible for ensuring that only those sentences are confirmed which correspond completely with the above outlined *military and political points of view*.

2. Otherwise, punishable offenses by army personnel are to be dealt with as before.

III

I am taking this occasion to point out again the necessity for the immediate application of punishment subsequent to the crime. Frequently it may be more important and more effective even in the course of operation to *mete out punishment immediately* rather than too late and then, particularly severely. Paragraph 16a of the Wartime Rules of Court Martial Procedure and my decree dated 12 November 1939 (Army orders 1939, Part C, page 416), create the possibility of imposing *disciplinary punishment in all cases in which it is justifiable according to the punishable offense and to the character of the culprit*; this should be exploited to its fullest extent by all disciplinary superiors. The regimental, etc., commanders, are to instruct their subordinate officers again concerning the possibility and meaning of the amplified disciplinary powers extended to them.

IV

This decree loses its special secret classification when camouflage is removed.

PARTIAL TRANSLATION OF DOCUMENT NOKW-209 PROSECUTION EXHIBIT 590

LETTER FROM DEFENDANT LEHMANN TO DEFENDANT WARLIMONT,
9 MAY 1941, CONCERNING THE PROPOSED BARBAROSSA
JURISDICTION ORDER, AND ENCLOSING A FURTHER DRAFT*

Armed Forces Legal Dept
32/41 Top Secret Matter for Chiefs

9 May 1941
3 copies

* This draft, and Lehmann's earlier draft of the proposed Barbarossa Jurisdiction Order, 28 April 1941, appearing immediately above, were introduced into evidence as one document and were therefore given identical document and exhibit numbers. These drafts have been arranged in chronological order for convenience of the reader.

To Chief Armed Forces Operations Staff

2d copy

Chief National Defense

[Handwritten] 1 copy each

[Initial] v. T. [von Tippelskirch]

[Handwritten] Quartiermeister 2

[Stamp]

OKW/Armed Forces Operations

Staff Dept. National Defense

9 May 1941

No. 44686/41 Top Secret,

Matter for Chiefs

[Handwritten] Take along for oral report the previous draft Armed Forces Legal Dept., and proposal High Command of the Army, also "directive". [Initial] W [Warlimont]

1 Inclosure

I

As per agreement I had the discussions concerning the [armed forces] jurisdiction with General Mueller and General Jeschonnek; I also discussed it yesterday with the chiefs of the legal sections.

The draft submitted to Dept. National Defense by the army [OKH] (letter of 6 May General for Special Missions with the CinC Army 75/41, Top Secret Matter for Chiefs) is based on an oral report made to General Halder by General Mueller, after Mueller's conversation with me.

The draft of the army comes very near to our own proposals. The only sentence missing is the provision that the courts of the armed forces have no jurisdiction at all over indigenous inhabitants. General Halder wished to have this jurisdiction maintained for those cases in which the troops have had no time to investigate; and also for the large number of minor offenses in which execution by shooting is not justified. I have objections to this, as has General Jeschonnek.

[Handwritten] Yes.

Once we take this step, we must take it fully. Otherwise the danger arises that the troops will hand over to the courts anything they consider burdensome (and that means just those doubtful cases), and thereby the contrary to what was intended will materialize.

[Handwritten] Yes.

I have discussed these considerations with the chiefs of the legal sections. Eventually all of them agreed. They all, however, argued that it is absolutely necessary to provide for the possibility of reinstating court jurisdiction in due course.

The measures expected from the troops can be carried out in the course of the actual fighting and in the initial period of pacification. Even at this stage, however, it seems probable that the officers will be less harsh than judges who are used to severe sentences.

After the end of the fighting and in more stable conditions, however, the troops will definitely no longer be willing to take measures of that kind. Furthermore, the chiefs pointed out unanimously that conditions in this enormous theater, containing populations of quite different ethnical origin, are so varied, that it is not possible to decide [on this level] on the question of whether the jurisdiction of the courts over the indigenous population should be reinstated in cases of offenses against the troops (such as cutting of cables and other acts of sabotage). They unanimously suggested that this authority be delegated to the commanders of the armies and authorities on equivalent level. It will not be possible to disregard these wishes completely. My own suggestion took a middle course.

[Handwritten] Upon request.

It is significant that General Jeschonnek, too, felt that the troops will probably release unpunished quite a number of people who would deserve different treatment. However, he feels that this risk must be incurred.

II

Otherwise, the following new points are contained in the enclosed draft:

I have inserted a preamble in order to make the subject a little more palatable. From the draft of the Commander in Chief of the Army, I have taken over what is laid down in I 4. This has been expressly approved by General Halder; as far as *collective measures* are concerned, it has been suggested by General Halder himself.

Section I 5 is new and was inserted by me. The aim is to cope with attempts to shift the responsibility for doubtful cases to the courts.

In II 2, the Chief Armed Forces Operational Staff has replaced, at the end, the words "no German has forgotten", contained in my old draft, by the words "no Germans must forget". I suggest that it be considered whether "has forgotten" is not perhaps more to the point. Excesses of a certain kind can be condoned only if it is submitted that no soldier has forgotten these things.

A new point, adopted from the draft of the Commander in Chief of the Army, is the principle, contained in II 3, that action must

also be taken if the troops threaten to become out of hand. As a matter of fact, this is already contained in the preceding sentence. But it is perhaps just as well to stress this important point expressly and to illustrate it by examples.

[Handwritten] Yes.

III

The branches of the armed forces, ask most urgently that this directive be issued to them not later than 14 May 1941.

[Signed] LEHMANN

[Handwritten] Conference with Chief, Armed Forces Legal Dept. 12 May, afternoon. [Initial] W [Warlimont]

[Draft]

[Stamp] Top Secret

Enclosure to 32-41 Top Secret Matter for Chiefs
Armed Forces Legal Dept.

Copy No. 2

Matter for Chiefs

Fuehrer Headquarters, the.....

The Fuehrer and Supreme Commander of the Armed Forces

*Decree concerning the exercise of military jurisdiction in the
"Barbarossa" territory*

The armed forces jurisdiction serves primarily the maintenance of discipline.

The vast extent of the Eastern theater of operations, the battle tactics conditioned thereby and the peculiar qualities of the enemy confront the courts of the armed forces with tasks which, being short-staffed, they cannot solve while hostilities are in progress and until some degree of pacification has been achieved in the conquered areas, unless jurisdiction is confined in the first instance to its main task.

This is only possible if the troops defend themselves relentlessly against any threat from the enemy civilian population.

The following regulations are, therefore, issued for the "Barbarossa" area (operational area, army group rear area and the area of political administration).

I

Treatment of offenses committed by enemy civilians

1. Until further notice, the courts martial and the summary

courts martial will not be competent for offenses committed by enemy civilians.

2. Guerrillas will be ruthlessly liquidated by the troops either in combat or in flight.

3. Similarly, all other attacks by enemy civilians on the armed forces, its members, and employees, will be suppressed on the spot by the troops using the most extreme means, until the assailants are annihilated.

4. Where such measures have been neglected or were not at first possible, persons suspected of an offense will be brought immediately before an officer. This officer will decide whether they are to be shot.

On the orders of an officer on the level of at least battalion commander, collective coercive measures will be carried out immediately against localities from which cunning or malicious attacks are made on the armed forces, if the circumstances do not permit a speedy determination of the individual perpetrators.

[Handwritten] Handing over [Abgabe] Sonderkommandos? Enclosure to L No. 44686/41 Top Secret, Matter for Chiefs, 9 May 1941. [Refers to paragraph 4, above.]

5. It is expressly forbidden to detain suspects in order to transfer them to the courts after the reinstatement of jurisdiction over the indigenous population.

6. The commanders in chief of the army groups, after consultation with the competent commanders of the air force and the navy, may reintroduce jurisdiction of the armed forces courts over civilians in those areas which have been sufficiently pacified.

For the political administration area this order will go through the Commander in Chief of the Army after consultation with the commanders in chief of the other branches of the armed forces.

[Handwritten] No.

II

Treatment of offenses against indigenous inhabitants committed by members of the armed forces and its auxiliaries

1. In the case of offenses committed against enemy civilians by members of the armed forces and its employees, prosecution is not obligatory, even if the deed is simultaneously a military violation or crime.

2. When judging such deeds, it must be borne in mind, whatever the circumstances may be, that the collapse in 1918, the sub-

sequent suffering of the German people, and the fight against national socialism, which cost the lives of innumerable supporters of the movement, were caused primarily by Bolshevist influence, and that no German has forgotten this.

3. The judicial authority will, therefore, decide in such cases whether disciplinary punishment is indicated or whether judicial proceedings are necessary. In the case of offenses against indigenous inhabitants, the judicial authority will order a court martial only if maintenance of discipline or security of the troops calls for such a measure. This applies for instance, to serious offenses based on utter lack of sexual restraint, or resulting from a criminal tendency or indicating that the troops are threatening to become out of hand. As a rule, offenses resulting in the senseless destruction of billets, stores, or other captured material to the disadvantage of our forces will not be judged more leniently.

The order to institute investigation proceedings requires the signature of the judicial authority in each individual case.

4. Extreme caution is indicated in assessing the credibility of statements made by enemy civilians.

III

Responsibility of military commanders

Within their sphere of competence, military commanders are *personally* responsible for ensuring that—

1. Every officer of the units under their command is instructed promptly and with the utmost emphasis on the principles set out under I above.

2. Their legal advisors are notified *promptly of these instructions and of the verbal information which elucidated the political intentions of the leadership to the commanders in chief.*

3. Only those sentences are confirmed which are in line with the political intentions of the leadership.

IV

Security

Once the camouflage is lifted, this decree will be classified as, "Top Secret", only.

By Order:

The Chief of the High Command of the Armed Forces

PARTIAL TRANSLATION OF DOCUMENT NOKW-2672
PROSECUTION EXHIBIT 598

EXTRACTS FROM ACTIVITY REPORT NO. 2 OF PANZER GROUP 3,
JANUARY-JULY 1941, CONCERNING TREATMENT OF
COMMISSARS, PARTISANS, ETC.

[Handwritten] Homeland, Russia

Panzer Group 3
Section Ic

Activity Report No. 2
January-July 1941

*Campaign against the Soviet Union
Preparations*

Campaign until the end of the battle of Smolensk

[Handwritten] seen 25 September 1941

[Signed] HOTH

Reference to enclosures

General affairs until the beginning of the campaign

About the end of 1940, beginning 1941, the intelligence officer was instructed about an operative study of Army Group B, concerning preparations for a campaign against Russia.

From 6 January until 15 February 1941, a Ic instruction course was held at the 2d Army in Feldafing near Munich. The intelligence officer of Panzer Group 3 was assigned to the course as instructor. Main topic of this course was the indoctrination of reserve officers as intelligence officer of a division. The tactical tasks were within the field of activities of the division. Map maneuvers alternated with staff maneuvers. The Red Army was considered as enemy as far as organization, equipment, battle strength, etc., was concerned. In spite of the short time the course has satisfactory results, as can be said in retrospect (today 8 August 1941) on the basis of practical experiences with these reserve officers who are now assigned as division intelligence officers to tank and motorized divisions.

* * * * *

As a whole it can be said, that with the victories of the German Army and the information course on Soviet Russian conditions, there was no hope for the Red propaganda to succeed. Through leaflets and radio broadcasts our own propaganda should have

been used to a much greater extent on the members of the Red Army.

For further information see spiritual welfare [Geistige Betreuung], page 99 ff.

The special treatment of political commissars by the troops soon became well known on the Russian side and increased the resistance. To avoid publicity, special treatment should have been carried out at first in camps located more to the rear. Also the majority of the captured Red Army soldiers and officers know of such special treatment. They had been informed of it through their own orders and through reports of political commissars who had escaped [from German captivity].

* * * * *

Legal questions

A. *Treatment of guerrillas, etc.*—On 11 June the intelligence officer and the judge advocate of the group were ordered to Warsaw to a meeting of the General for Special Missions with the Commander in Chief of the Army. The General for Special Missions, Major General Mueller, after having read the Fuehrer decree, explained that in future operations the *necessity of war* might possibly have to *come before a feeling for law*.

Necessary therefore is—

A return to the old warfare methods; our present rules of warfare were only established after World War I.

One of the two enemies must die; do not spare the bearer of enemy ideology, but kill him.

Every civilian who impedes or incites others to impede the German Armed Forces is also to be considered a guerrilla (for instance—instigators, persons who distribute leaflets, nonobservance of German orders, incendiaries, destruction of road signs, supplies, etc.).

The population is denied the right to take up arms voluntarily. Neither are para-military associations (Komsomol, Ossoaviachim) entitled to do so.

Punishments, principles—immediately at any rate no delay in the proceedings. In lighter cases individual persons can, under certain circumstances, be punished by flogging. The hardships of the war require severe punishments (remember World War I—the Russians in Gumbinnen.* If the railroad Tilsit-Insterburg was damaged, all village inhabitants who lived along that line were to be shot). In cases of doubt as to guilt, suspicion will often have to suffice. Clear evidence often cannot be established.

* The writer here is referring to the battle of Gumbinnen (19–20 August 1914) in which the Russian 1st Army defeated the German 8th Army.

Reference to enclosures.

Collective coercive measures by burning down; shooting of a group of people, etc. The troops should not let themselves be diverted or indulge in an orgy of bloodshed. No unnecessary harshness, that is only as far as required for the security of the troops and a speedy pacification of the country. As far as individual persons are concerned, any officer can make a decision, in case of collective coercive measures any officer of battalion commander level or above.

B. *In case of offenses or crimes committed by soldiers of the German Army* against the indigenous population, the judicial authority will decide whether judicial or disciplinary action should be taken. Any regulation contradicting his opinion are herewith rescinded.

In retrospect, on 14 August, it can be stated that against all expectations, guerrilla activity occurred only to a limited extent and, therefore, severe punishment had to be applied only in individual cases. But it became obvious that the *political commissars* personified the Bolshevik ideology. Their influence over the troops under their control was considerable. The determined resistance of the Bolshevik troops probably can be based on the fact that they convinced many soldiers that the only existing alternatives were resistance to the end of a painful death after capture.

In the first weeks of the campaign, only very few political commissars and officers were captured. Up to the beginning of August, approximately 170 political commissars (with the troops) were reported as captured for the whole army group area and evacuated separately according to army corps' reports. The execution [Durchfuehrung] did not create any problem for the troops.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT LEHMANN 217
LEHMANN DEFENSE EXHIBIT 89

EXTRACTS FROM AFFIDAVIT OF DR. ERICH LATTMANN, 15 MAY 1948

I, Dr. Erich Lattmann, born 11 December 1894, at Goslar, residing at Clausthal-Zellerfeld in the Harz, Goslarschestrassse 20, having been warned that I render myself liable to punishment if I make a false affidavit, do hereby declare on oath that my statements are the full truth and were made to be submitted in evidence to the Military Tribunal in the Palace of Justice at Nuernberg, Germany.

During the war, between 1 September 1939 and 31 October 1942, I was chief of Group III of the Generalquartiermeister that is, the Legal Group with the General for Special Missions attached to the CinC of the Army, and between 1 November 1942 and 2 May 1945, judge at the Reich Military Court.

I. In April 1941, Dr. Lehmann invited the three chiefs of the legal sections of the branches of the armed forces (Neumann, von Hammerstein, and Rudolphi) and me as the chief of the Legal Group of the Field Army to attend a conference.

* * * * *

We all realized that Dr. Lehmann was *bitterly* opposed to Hitler's demands and had done, and was still doing, all he could to thwart them. Accordingly, he did not content himself with giving us an account of the developments and the present position, but asked us to encourage the commanders in chief of the three branches of the armed forces to resist since they were the only ones in a position to bring about an improvement. He had the idea that the commanders in chief might make representations to Hitler. To this I replied that Brauchitsch was not likely to prevail on Hitler to change his mind, because relations between them were too strained, but I did think that Brauchitsch might couch the implementation order pursuant to the decree in such terms as virtually to defeat its original purpose.

What I had in mind was to couch the decree in such terms as to offer some loophole. This Dr. Lehmann promised me to do.

During the whole conference Dr. Lehmann's inner excitement was clearly visible. He was resolved to go the whole length and to obstruct the decree to the utmost. He quite openly sided with us against Keitel and Hitler and described the practical effects of the projected order with such a certainty as to inspire every one of us with the conviction and the will to act against it while there was time. What mattered to him was obviously this—he wanted either to make sure that the courts could function as before, i.e., according to the established law and procedure, or, if that was impossible, to keep them wholly out of responsibility.

Subsequently Dr. Lehmann briefly touched upon another order which dealt with the treatment of the commissars. He mentioned that Keitel had pointed out to him in this connection that this was no business of the legal department since it was a command matter, not one of the administration of law. He accordingly asked us not to concern ourselves with this matter. Needless to say he flatly rejected the idea just as we did.

II. In May 1941, Dr. Lehmann invited the chiefs of the legal sections and me to visit him several times. He again mentioned

that he was concerned with the administration of armed forces law in general. For this reason he had worked a clause into the "Barbarossa" decree to the effect that the troops were forbidden to get rid of unwanted matters by passing them on to the rear echelons and to delegate them, after the introduction of military jurisdiction to the courts which would then be held responsible for the judgment which, in the absence of any evidence, could only be an acquittal. It was therefore up to the troops to decide what had to be done with the offender. That, of course, could only be done after having heard the offender. However, Lehmann said he opposed the idea of making the courts into tools of the fight. *Courts must remain courts.* There must be a clear distinction between the responsibilities.

As regards the abolition of mandatory prosecution, Dr. Lehmann pointed out that the prohibition had been relaxed in that every judicial authority was entitled to examine whether the maintenance of discipline called for judicial action. This offered a possibility actually to punish real excesses.

III. Subsequently I informed Dr. Lehmann about the implementation orders of the Commander in Chief of the Army pursuant to the "Barbarossa" decree. In essence, they amounted to this—

a. In dealing with punishable offenses committed by enemy civilians, every arbitrary action was prohibited. This put a bar on all encroachments and arbitrary actions.

b. As regards punishable offenses committed by soldiers against indigenous inhabitants, it was pointed out that excesses must be prevented right from the beginning and that no slackening of discipline must be allowed to occur, as had been the case in the previous campaigns.

The implementation orders changed the intention of the decree into its reverse, because on the one hand indigenous inhabitants were to be judged only by the gravity of their offense, whereas on the other hand the mandatory prosecution was represented as the normal procedure. That was how things worked out in practice.

Of this I informed Dr. Lehmann. He approved the directives of the Commander in Chief of the Army. Subsequently, in July 1941, in agreement with me, Dr. Lehmann was in the area of the Army Group South and also visited the 17th [Army] and 1st Panzer Army. Staying with me, after his tour, he reported to me that things worked out as we had thought they would. In other words, he agreed to a Hitler order of which he had been a coauthor being practically reversed. This, more clearly than anything else, showed Dr. Lehmann's true attitude. One has to realize what it means if the chief of the Legal Department in the OKW personally

and quite openly urges the judges, unknown to him, to do the contrary of what Hitler had ordered.

Dr. Lehmann never made any comments on the Commissar Order, nor did we discuss it later on. The order did not concern us. Clausthal-Zellerfeld, 15 May 1948.

[Signed] DR. ERICH LATTMANN

EXTRACTS FROM THE TESTIMONY OF DEFENDANT LEHMANN*

DIRECT EXAMINATION

* * * * *

DR. VON KELLER (counsel for the defendant Lehmann): A meeting called by Hitler on 30 March 1941, has often been discussed in this case, where about 200 officers from the High Commands and various branches of the armed forces took part. Were you present then?

DEFENDANT LEHMANN: No. I did not even know that such a meeting had taken place.

Q. Did you know how many people took part?

A. I only learned that here.

Q. How did it come about that Keitel told you something about this meeting?

A. That was in connection with the "Barbarossa" Jurisdiction Order. Toward the last third of April 1941, one of the aides-de-camp of Keitel called me over the telephone. He told me that he had a very disagreeable order for me, and that he was very reluctant to pass it on to me. The message from the Field Marshal was as follows—he had informed me what the word "Barbarossa" stood for. The Fuehrer had ordered that in the case "Barbarossa", the courts martial were not to be taken along. The Fuehrer had also ordered that in the case of offenses by soldiers against indigenous personnel, the obligation to prosecute such offenders was to be rescinded.

The Field Marshal wanted me to know that within the next 2 or 3 hours I was to make a draft on this basis and send it to headquarters.

Q. Now, what were the two main points of this order, just to emphasize their significance for the later course of your testimony?

A. First of all that the courts martial were to be eliminated and secondly, that the obligation to prosecute had been rescinded.

* Complete testimony is recorded in mimeographed transcript, 15-16, 19-20, 26-27 July 1948; pp. 7909-8180, 8481-8582.

Q. What was your reaction to this order?

A. I could not believe my ears. Although I had heard the announcement of Hitler's, which Schmundt had related to me, to the effect that during the next war he was going to leave the courts at home, but I considered that one of those usual exaggerated threats, and I never attached any seriousness to it. Now I suddenly saw, by way of this very precise order, that he had been dead serious about it.

Q. Now, was that an order which you could change, or was it definite, did you inquire whether you could do something about it?

A. First of all I was so furious that it never occurred to me to ring up Keitel. In such a situation one sometimes takes more interest in the minor details than is really necessary, and I was particularly annoyed that the Field Marshal had not told me himself, but that he got his aide de camp to pass such an order to me. Of course, it was very obvious to me what the significance was. He didn't dare tell me about it. Therefore, I reasoned that under these conditions there was no point in discussing the matter with the Field Marshal, but there was nobody else with whom I could discuss it. Of course the whole matter was a so-called "Matter for Chiefs". That was top secret. According to the regulations I was only allowed to instruct my very close associates, and I thought to myself that that was one of the very rare moments where one has to put everything on one card.

Therefore, I prepared a draft and sent it to headquarters in a way I hardly ever did again. My orders were to prepare a draft to the effect that the courts were not to enter the Barbarossa territory. Now, I answered that by making a draft which suggested that the jurists should be completely and utterly eliminated from the armed forces administration of justice.

Q. Could you perhaps, as far as you remember, relate verbally the draft you made?

A. The draft itself has not been preserved, at any rate, it is not included in the prosecution documents; but such moments in one's life are hardly ever forgotten. I also quoted this draft later on repeatedly in a circle of confidants, and I trust myself even today to repeat it almost verbally, even under oath. There were four points in that draft.

Point 1 read: In future the jurisdiction of the armed forces will be exercised by soldiers who must not have qualifications as judges.

Point 2. Jurisdiction will be exercised by soldiers only.

Point 3. The judges of the armed forces will join their units

as officers of the reserve. As legal advisers of the commanders they will be replaced by officers possessing no qualifications as judges.

Point 4. This will apply equally to the four High Commands [vier Oberkommandos]*.

Q. May I ask you what the purpose of this suggestion was, which gives the impression as if it was directed against the administration of justice?

A. I was trying to bring the whole discussion to a head. I was trying to put the idea underlying Hitler's order *ad absurdum*, and I was trying to show where it would lead, "If one ever started any such matters; that the inevitable consequences would be such as are not permissible in a civilized state," and I tried to bring that out as clearly as possible. That is why I very consciously and intentionally made this draft in such a way that it would either lead to my punishment or that it would bring the men who were responsible for the order to their senses.

Q. Just one question in order to clarify one point. You say that the third point of your draft contained the provision that the judges of the armed forces would join their units as officers of the reserve. Why was that? Give us some practical explanation.

A. In that case all judges of the armed forces would have disappeared from the courts and offices of the armed forces; they would have joined the forces proper as reserve officers, and their places would have been taken by soldiers; that, of course, was the special and peculiar reason of that draft, that it would apply to the high offices and high levels of the armed forces, including my own department and myself. I even emphasized that for myself by making an application to Keitel at the same time in which I asked him to employ me immediately as an officer of the reserve in the front line.

Q. With respect to this wording of your suggestion I would like to put another question to you. Your intention was to eliminate all jurists by way of provocation. Now, did you define the word "jurists"?

A. Yes. By wording the draft the way I did, I wanted to eliminate not only the real judges of the armed forces but also the many officers of the reserve whose civilian occupation was in the legal field. In other words, all the civil judges, the public prosecutors, attorneys; all those, according to my draft would not have been allowed to participate in the jurisdiction of the armed forces. I was trying to make the whole thing as brusque and provocative as possible, and I even underlined the provocation expressed by

* Armed Forces High Command, Army High Command, Navy High Command and Air Force High Command.

this draft by putting a footnote to it. In the draft I had said, "any person having qualifications as judges," that is, those jurists who had passed the second state law examinations. Now in the footnote I said: "The question as to whether such soldiers who have passed only their first legal examination (that is, our legal apprentices) should also be excluded from cooperation in military jurisdiction will be subject to special consideration." I put this in particularly to include all jurists and legal persons I could think of.

Q. However, you were also supposed to make a draft on the elimination of the obligation to prosecute?

A. That I didn't do.

Q. The rescindment of the obligation to prosecution, Your Honors, I shall discuss only after the first part of the order, according to its historical place.

Who else knows about these developments and about this draft?

A. My legal experts and the chiefs of the legal departments of the various branches of the Wehrmacht know this draft. They learned of this draft only later, but my close associates learned of it the same day.

Q. What did you do with this draft after you had finished it?

A. I had it telephoned to Berchtesgaden, or had it teletyped, within the time limit set me.

Q. What did you believe, at the time, would happen?

A. Well, I myself didn't know. Something had to happen, but I didn't know what it would be.

Q. And what did actually happen?

A. I was ordered to come to Berchtesgaden on the following day.

Q. By whom?

A. By order of Keitel.

Q. And you went and reported there?

A. Yes. I reported to Keitel, and I also found General Jodl present at Keitel's office. I remember that particularly well because it was the only report I made to Keitel during the whole of my service in the presence of Jodl; that never happened again. Keitel had asked Jodl apparently to give him some moral support.

Q. How did Keitel receive you?

A. I have already told the Tribunal that the Field Marshal had always been very polite to me; however, on this occasion that could not be noticed. He did not shake my hand, and in more than un-

friendly terms told me that what I had sent him was not only unsoldierly but also a very gross provocation. It was open revolt, and bad manners against a Fuehrer decree which I had to accept in the same way as any other soldier had to accept a Fuehrer order. Keitel also mentioned that he was particularly annoyed by the footnote, which I have already mentioned, that the young jurists should be eliminated from further military jurisdiction.

Q. What was Jodl's attitude during this interview?

A. Jodl was just the same as always. He was calm and helped me a great deal during that interview.

Q. Can you also describe the course of that interview?

A. The whole discussion was rather disorderly and full of tension. It lasted several hours, but of course I had been clear about it from the beginning, and that was the sort of attitude which I had wished for. Right at the beginning it became evident what the effect of my draft had been. During that conference the idea that jurists were to be left at home was never mentioned with one more word. That whole idea died before it had been properly born. The effect of my draft, at least to that extent, had exceeded all my expectations. The whole suggestion of relieving jurists of military responsibility was never mentioned again. This draft was more effective than the most beautiful letter of protest containing all the legal considerations I could have written, and in the proper sense of the word the whole order had been led *ad absurdum*.

Q. You just mentioned your success. Now, how successful were you in the end?

A. It was really only half a success. The concessions had been made that the jurists and the military courts were to be taken along in the war, but a new question arose on what subject they should be put to work because the fact that they were taken along was not a proper success.

Q. And in which way was it not a proper success?

A. Because it had not been decided what their competency would be; that was a point which had to be fought for now.

Q. You said earlier that simultaneously with the draft you had applied to Keitel to transfer you immediately to the front line. What happened to that application of yours?

A. Keitel pushed that application back to me across the table and said: "There it is, you'd better take it."

Q. What about the question of competency; what was decided about the competency during this discussion?

A. There was really only one problem that had to be discussed; that was what competency the courts would have in the case of criminal offenses on the part of Russians. With regard to this point Keitel would not listen to any reason. He emphasized repeatedly that that had been finally and conclusively decided, and that any discussion about it was beside the point. And on this point even Jodl wouldn't help me. That brought me to the conclusion that Keitel was right, because it was well known that Jodl who was a much harder man than Keitel, usually did not fall for just any idea of the Fuehrer's, and if Jodl did not help me in making my point, and if he confirmed the explanations of Keitel, it was conclusive evidence for me that Hitler's order was irrevocable.

Q. Now, did you endeavor to define even a partial competency for military courts with regard to the treating of Russian nationals?

A. I endeavored to obtain not only a partial but a full competency, but I could not make any headway on this point at all, although I kept on asking what the reasons were against letting the courts have jurisdiction over Russians.

Q. Well, and what was the answer then?

A. At the beginning only Keitel would give me an answer to that question. He repeated as a sort of mouthpiece of Hitler's all the reproaches and criticisms from the Polish war and the war in France which I have already explained to the Tribunal today. In other words all the unjustified complaints which we had received at the time were warmed up again and thrown into the discussion, and they were dressed up as complaints by the Fuehrer. They were the old criticisms that the war was being sabotaged; that we weren't strict enough; that we didn't understand the troop psychology; that we were far too much in the rear; that all this was nonsense; that the courts of the armed forces were not suitable to deal with such matters. That was the general trend of the remarks.

Q. Did you achieve anything during the discussion?

A. Gradually the Field Marshal calmed down and he eventually said: "Well, Herr Lehmann, be sensible; you experienced the whole thing during the war in Poland; you had to suffer from it yourself; you know how all these criticisms arose. If the courts are to sit and if there isn't sufficient evidence because of the time gone by in the meantime, then the courts have to acquit the offenders; so we get a long set of files and documents; the whole thing will be investigated, and we get another set of complaints. Why don't you realize how all this criticism came about, that it

will appear again in a procedure which has to rely mainly on written work. You will only earn another harvest of criticism. Whatever the troops do, that, in the eyes of the Fuehrer, is right and good." So I said, "All right then; but it is incomprehensible if you have courts and if you have a case which is perfectly clear and if the court is on the spot, why the court shouldn't be allowed to try such a case. This cannot be explained to any normal person." Keitel then said: "Well, maybe", and he began to see reason at this point. Then Jodl gave me some support and said: "I think I have to agree with Lehmann. If the court is there, if the case is clear, there doesn't seem to be any reason why the court should not be allowed to pass a judgment." Of course, I was glad that I had got that far and I said, "All right then, the courts go along, and if the case is clear, they can pass judgment" and that was first of all conceded.

* * * * *

Q. Were you then the only one who received such an order to work out a draft, or did some other agency receive an order of this kind?

A. It was only later on that I found out that the jurists in the High Command of the Army also had received such a commission, but at that time I didn't know it. That is the order to which General Halder's testimony referred, and the order to the German Army resulted in the High Command of the Army submitting a draft to Field Marshal Keitel. The Tribunal will find this draft in Document 877-PS, Prosecution Exhibit 53.* On page 1 there is the covering letter to the draft, and on page 2 of the original, there is the draft itself. It is the so-called "draft" dated 6 May 1941, signed by General Mueller; but I would like to stress that I didn't know about this at that time.

* * * * *

Q. After the conclusion of the Berchtesgaden conference, I now come to the question of what you did with the result of this Berchtesgaden conference. You went back to Berlin?

A. Yes, I did. First of all I didn't do anything at all; I waited until I received further orders because Keitel wanted to speak to Hitler.

Q. And then what happened?

A. The Field Marshal sent me his notes and the notes which he had made during the later oral report to Hitler, and he told me that the order should be drafted on the basis of these notes.

* Document reproduced above in section A 2.

Q. Is the order which you thereupon drafted contained in the prosecution documents here?

A. No. It is not.

* * * * *

Q. And what were the contents of this second draft?

A. Without something to help my memory I cannot say. I only know that it was an editing of the notes which Field Marshal Keitel had given to me as a result of his oral report to Hitler.

Q. Your Honor, this draft No. 2 is sometimes also called, "directive".

A. These notes of the Field Marshal, I translated into the form of an order.

Q. And then what did you do with draft No. 2?

A. I sent it to Berchtesgaden as I did draft No. 1. I probably sent it to Jodl whom I regarded in this whole matter as my negotiation partner.

Q. And what was the fate of draft No. 2?

A. Draft No. 2 came back again with comments made by Keitel as well as by Jodl. I had been previously told, before draft No. 2, that Hitler was in general in agreement, but then came a new instruction. But after all this time I can't say exactly what the contents were without something to help my memory. At any rate the draft came back to be worked upon again.

Q. And what did you do then when this draft came back?

A. Thereupon I revised the draft again and the result is the draft which is contained in the prosecution documents, in Prosecution Exhibit 590, Document NOKW-209,* and the covering letter to it is also contained in Exhibit 590. The covering letter is dated 28 April 1941.

Q. Your Honor, I would like to call this draft No. 3.

* * * * *

Q. Can you tell us anything about the contents of the draft No. 3 which is in the documents?

A. As far as the jurisdiction is concerned, there is contained here a suggestion which goes beyond what had been conceded in Berchtesgaden. I had reported about what had been conceded in Berchtesgaden, that the jurisdiction should remain for clear cases.

* Document reproduced in this section.

In section II of the draft, the jurisdiction is maintained in all cases of criminal offenses by indigenous inhabitants as far as they are not warded off by the troops during combat; that is, not only in clear cases. All this goes beyond what was conceded in Berchtesgaden.

Q. Would you please quote the passage which you are talking about particularly here?

A. It is section "II", of the draft. "The judicial organization of the armed forces serves primarily the enforcement of discipline. Violations committed against the troops will be dealt with by the troops themselves as set out under No. I. Only in those exceptional cases in which this has not been done will judicial prosecution take place."

Q. Therefore, prosecution without limitation as regards clear or doubtful cases?

A. Yes. That was the suggestion.

Q. But then you must say that this suggestion does not coincide with the directives which you had received?

A. Yes. It was again an attempt to maintain the entire jurisdiction.

Q. Did you think that you would find some basis for later action in this?

A. Yes. I did.

Q. I would now like to draw your attention to a passage in this draft—not in the draft itself, but in the comments which are to be found on page 6 of the original. There it states: "The only alternative left is, therefore, to have civilians whose guilt cannot be proved immediately, tried by the courts, or to have them shot by the troops. If they are handed over to the courts, the courts must decide concerning guilt or impossibility of providing proof and acquit the defendant in the latter case. I am stressing this particularly." Can you give us an explanation for this passage?

A. This can be explained from the development of this draft. I told the Tribunal that I was afraid the courts would be faced with an inadmissible pressure. I wanted to make it quite clear, quite unequivocal, that the courts would not deviate from their attitude which they had maintained up until then. That is what I wanted to say quite clearly and that is how I said it.

Q. Here you talk about the fact that persons whose guilt cannot be proved immediately must be tried by the courts or must be shot by the troops. Were innocent people to be shot, too, or those people whose guilt could not be proved?

A. Of course not. If their guilt had been proved they were to be shot. That is the reaction to the events in Poland and to the conversation in Berchtesgaden. The connection is, as I have stated previously, if the courts are to judge then files accumulate, which can be checked. If the troops decide at the front, then no files accumulate about the whole matter, and nothing can be checked; then the eternal critics cannot come along and say the jurists are guilty for the fact that someone has been let off here again. That is the reason for this.

* * * * *

Q. Then in reply to draft 3 (*NOKW-209, Pros. Ex. 590*), which we have just discussed, dated 28 April, did you receive an answer?

A. Yes, I did. We received the answer that the draft corresponded to the directives even less than the former one did. The jurisdiction was to be eliminated and not to be introduced for the indigenous inhabitants.

Q. Do you know who said that?

A. Yes. Field Marshal Keitel.

Q. Did he tell you directly or did he have somebody tell you?

A. No. He told me directly.

* * * * *

Q. Did you try to facilitate the reinstatement of the courts, that is, to prevent this position from becoming a permanent state?

A. Yes, I did. Naturally, I had no conception of the possible duration of the war, but the successes in Poland and in France supplied certain indications. I said to myself that if this terrible war really were to break out, I hoped that it would not last long; for that reason, according to the ideas of the chiefs of the legal departments, and according to my opinion, this was merely to be a transitory solution, an interim solution. After the conference with the chiefs of the legal departments, it was suggested that the troops themselves were to be allowed to reintroduce jurisdiction. In my draft number 4 you will find under Roman I, section 6, the regulation that "the commanders in chief of the army groups, after consultation with the competent commanders of the air force and the navy, may reintroduce jurisdiction of the courts of the armed forces over civilians in those areas which have been sufficiently pacified." Thus the nature of this decree, as an interim solution for a rapid advance, was to be made quite clear. I was very pleased that this was in fact attained, that subsequently,

owing to Hitler's influence, it turned out to be a mere paper solution I could not anticipate at the time.

* * * * *

Q. Did you have any scruples at the time about ordering collective measures against localities or having them included in the draft?

A. No. In view of the premises which were to precede such measures, I had no objections to them at all. Apart from this, such measures and such orders were nothing new. Perhaps I may refer to Document 2329-PS, Prosecution Exhibit 1147, a regulation by the High Command of the Army, dated November 1939. There it says under section c, "Coercive measures", and I quote, "The severest countermeasures are to be taken against sabotage passive resistance. Coercive measures, in particular, police measures, in order to restore peace and order and to secure the safety of the troops, may be undertaken by troop leaders with at least the rank of a battalion commander, reporting this to his immediate superiors. If delays are dangerous, every leader is entitled to take the necessary action himself." Thus it was not a novelty for the High Command of the Army.

Q. To make matters clear, were you instrumental in the drafting of this Exhibit 1147?

A. No.

Q. Your Honor, this brings me to the end of that portion of the order which refers to Russian civilians. Subsequent questions will now refer to that part of the order which has reference to the prosecution of offenses committed by German troops, that is, jurisdiction over German soldiers.

Now, Witness, this brings me to the obligation to prosecute, and I would ask you once again to summarize. Did your draft No. 1, of the provocation drafts contain any comment on the question of the prosecution of offenses committed by German troops?

A. No.

Q. What was the result of the Berchtesgaden conference in respect to this question?

A. I would like first of all to make a statement about the general situation governing the prosecution of offenses according to our regulations, because only thus will the Court be able to form a picture.

In Germany we had no absolute obligation to prosecute all offenses according to the trial procedure for the war. The question

is regulated in the trial procedure for the war. It has been submitted to the Court in Document Lehmann 72, Lehmann Defense Exhibit 2. There you will find paragraph 47, in which it is stated: "If the guilt of the perpetrators is slight and if the consequences of the offense are insignificant, then the supreme judicial authority may refrain from prosecuting." That is a regulation which is also provided for in the trial procedures of other countries, because other large countries also do not know the absolute obligation to prosecute offenses of all kinds. During the war in Germany the obligation to prosecute had been relaxed in another point also, upon request of Field Marshal von Brauchitsch during the Polish campaign. Field Marshal von Brauchitsch had always devoted his especial attention to jurisdiction and spent a good deal of time with this subject matter. I know this from his legal consultant. The Field Marshal was convinced that in wartime one should apply less judicial penalties and should prefer disciplinary punishment. He always held the view that in war an offense was to be punished as fast as possible. It was more important, so he thought, for action to be taken immediately, even if a lesser penalty were imposed than for a protracted judicial procedure to be started which would only result in a sentence after months. For that reason Field Marshal von Brauchitsch, shortly after the beginning of the war, requested that minor criminal offenses also be punished by disciplinary punishment. His request was granted by Hitler. Shortly after the Polish campaign, a decree was issued, which is before the Court in Document Lehmann 74, Lehmann Defense Exhibit 4. This inserts a new paragraph, 16a, into the wartime trial procedure, the gist of which is that criminal offenses could also be punished by disciplinary measures if the facts had been sufficiently clarified and if, in the light of the offense itself and the guilt of the perpetrator, disciplinary punishment would be adequate. That was therefore, a punishment effected by the commanding officer without a court in the case of acts which were actually punishable by court procedure. And I emphasize once again, Field Marshal von Brauchitsch did not suggest this in order to weaken discipline, but in order to reinforce discipline, because he stated that in war a short penalty imposed speedily is much better than a punishment of which the troops learn nothing subsequently because they are elsewhere. This is a point of view based on practical experience and welcomed by all commanders I know of. Now, these were the amendments to the obligation to prosecute which were already customary. This therefore, referred to military offenses, to disobedience and matters of this kind. To repeat, we never had the absolute obligation to prosecute offenses, just as other countries didn't know this obligation. Since in this case, the Soviet Union

is involved, I would like to mention the Russian regulations. The Russian criminal trial procedure of 1922, also contained the obligation to prosecute. But a novelty dated November 1925, made the following exception—

MR. FULKERSON: Your Honor, I would like to object to this recapitulation of the Russian regulations. I think the regulations would be the best evidence of what they contain.

JUDGE HALE: I suppose, General, you have a copy of the Russian regulations?

DEFENDANT LEHMANN: Yes. But it is only one sentence, Your Honor, which is of some significance.

PRESIDING JUDGE YOUNG: Well, the objection is overruled. If the prosecution wants to see them, you can submit them to the prosecution.

DEFENDANT LEHMANN: It is only one sentence, Your Honor. The Russian exception to mandatory prosecution is quite generous. "The prosecution is not necessary if the initiation of criminal proceedings or its execution is obviously inexpedient."

Q. May I ask you to describe how Field Marshal von Brauchitsch commented on this authorization contained in paragraph 16a of the wartime criminal procedure?

A. He requested it himself.

Q. And did Brauchitsch institute any safeguards to see that it was not only used for expediency?

A. Yes. He did. The Field Marshal, as Commander in Chief of the Army, issued a very noteworthy decree which the Tribunal will find in Document Lehmann 75, Lehmann Defense Exhibit 5, in which he states regarding this new paragraph 16a: "Thus, I thereby charge the disciplinary officer with a great responsibility. I expect this increased authority to be used in full justice, with the aim of maintaining discipline and thus the morale of the troops at the highest level." And he goes on, "Punishment is to follow the offense immediately, and thus have its corrective educative value. Every abuse of this increased authority is to be stopped. Its purpose is by no means to help the perpetrator escape the punishment he has merited."

Q. Witness, it is a far step isn't it from what you have just outlined until the lifting of the obligation to prosecute, that is, until the final elimination of the obligation to prosecute?

A. Yes, and I believe that I personally prevented such a step.

Q. Can you describe what the Berchtesgaden conference said regarding this topic?

A. During the conference with Keitel and Jodl, I did all I could to resist Hitler's order. In this point, General Jodl greatly helped me. I do believe that without his help I would not have got as far as I did. I told the Field Marshal that if the obligation to prosecute were eliminated, the troops were bound to return completely demoralized from the fighting, and I had adduced instances of all kinds. I told the Field Marshal that the authoritative gentlemen would only regain their wits when the daughter of a Nazi Gauleiter or a field marshal had been raped. Keitel became very angry at this and forbade such instances of a personal nature, but Jodl helped me, and then jointly we tried to persuade the field marshal. I was willing first of all to have the obligation to prosecute preserved in the case of military offenses. That would have been a great help, because then insubordination would always have been punishable, and via the detour of insubordination, of disobedience, if you have sufficient training, you can get at any criminal offense.

Q. You mean military disobedience, don't you?

A. Yes, I do. Unfortunately however the Field Marshal also had his own copious experiences and noticed it immediately and refused; but finally we succeeded in making decisive inroads. He conceded a regulation that all acts were to be bound to be prosecuted if the discipline of the troops was endangered.

Q. Was it an unqualified success?

A. In the light of the fact, it was an unqualified success, because if Hitler agreed, then it didn't matter what the regulation looked like. As soon as you tell a commander—You can do everything necessitated by discipline—then you furnish an experienced commander with all means necessary. We knew our commanding officers, we knew them personally, we knew their administration of justice from peace time and from the campaigns that had taken place so far, and we knew precisely how they would handle such a regulation. A commanding officer of troops knows one thing for certain, and that is that he could only work with troops who are in good order, among whom discipline prevails; and if a commanding officer has to operate in a foreign country, then he is inspired by only one idea. He does not wish to have any more enemies than the armed forces of the opponent. No commanding officer of the troops who is in possession of his five senses will permit his troops to commit excesses against the population, because enemies in the rear and at the front are superfluous in his opinion.

Q. Now, was this suggestion to prosecute offenses under the aspect of discipline approved by Hitler?

A. Yes.

Q. And how did the chiefs of the legal departments of the individual services react, because they felt the practical effects, didn't they?

A. I explained it all to the chiefs of the legal departments, and they said the same as I, that it was completely mad to do it at all, but this clause, this saving clause of the maintenance of discipline, could be worked on by the commanders.

Q. Now, how was this technically done?

A. I assume that my draft number 2 already contained such a suggestion for cases in which discipline was endangered. I myself would never have ordered such a restriction of the obligation to prosecute if I had had any power of command, but with this clause mentioned it seemed to me free from objections, and Field Marshal von Leeb was quite right in saying here that this was not a back door but a wide open gate through which everyone could enter. It seemed to me of significance, too, that the jurist of the army, Dr. Lattmann, told me: "The main thing, after all, is to supply some kind of means for the prosecution of offenses." The necessary additions would be made in the implementation orders because these implementation orders did not need Hitler's approval, and this promise was kept by Dr. Lattmann, that is, in the disciplinary decree of Field Marshal von Brauchitsch which was presented to the Tribunal in previous examinations.

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Q. Witness, did you nevertheless try in some way to influence the subsequent course of developments?

A. Yes. Last week I told the Tribunal about my position and explained that I did not have any authority to supervise or to give orders, but of course this matter affected me very much and kept me very busy. In July, I drove to the Ukraine in my car to von Rundstedt's Army Group, and from there I visited the armies of the army group, the 6th Army, the 17th Army, and the 11th Army. In addition I visited the air fleet of General Loehr; also the Air Command [Fliegerkorps] of General von Greim; then I visited the air divisions and also the Commander of the Army Group Rear Area; and, everywhere, although this in no way belonged to my competency, I talked with the commanders and with their judges about the correct handling of this order, and everywhere I found complete understanding. I told the people that I did not want to alter anything with regard to the removal of indigenous inhabitants from our jurisdiction. In addition, I explained to them that the regulations about the prosecution need only be applied correctly. The order offered every chance for this, and they all under-

stood. Among the armies I visited, I forgot to mention the Panzer Army of Field Marshal von Kleist, where I talked with the later Chief of the General Staff [of the German Army] Zeitzler about the matter, since I couldn't see the Field Marshal himself. Therefore, I did everything within my power to clarify things in this area, and I was supported in this by the legal advisor of Field Marshal von Rundstedt—this was the former Ministerialrat, Dr. Sack, whose name I have already mentioned and whom I will mention frequently in the future. The people whom I visited are almost all still living, and as far as we have been able to reach them, we will submit to the Tribunal affidavits about my trip there.

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2. KILLING OF PARTISANS AND OTHER PERSONS; HOSTAGE AND REPRISAL ACTIONS

PARTIAL TRANSLATION OF DOCUMENT NOKW-711
PROSECUTION EXHIBIT 692

EXTRACT FROM SUPPLEMENT TO WAR DIARY OF 3D PANZER ARMY,
AUGUST 1941-JANUARY 1942, CONCERNING EXECUTION
OF PARTISANS AND PW'S

Enclosure K to Activity Report No. 3, 3d Panzer Army, Section Ic started 17 August 1941, concluded 31 January 1942.

Supplement to War Diary Panzer Group 3, Ia [file no.] 20839, 5

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[Handwritten] Enclosure 5

Section Ic/A.O

Comments to the Partisan situation map 1: 50,000

Started on: 27 August 1941

Concluded on: 25 September 1941

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8. Two motor vehicles of the Panzer Group Signal Regiment 3 were fired on 9 September by approximately 10-20 partisans. Searches had no results. We had no losses. Four extremely suspicious Red Army men who were apprehended in Djedkova—nearest to the place of attack—will be shot.

* * * * *

10. Operation against Petrakovski-Latuishki, in the night 10-11 September. Short skirmish, in which one partisan was killed, another, apparently high ranking partisan commander was captured, but was shot immediately because of his serious wounds. Furthermore three innocuous prisoners were taken.

* * * * *

19. Six prisoners from the region of Gorodishche-Bukino were taken during the operation on 21 September in the zone Gorodishche, Bukino, Djedkova, Lavinki, Kashutina, and Sarboje, some of them armed. These prisoners were shot on the spot after a short interrogation. Furthermore 7 prisoners from Djedkova.

20. Two very suspicious looking men, probably partisans, were seized on 19 September in the region of Pashkovo. They were shot.

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PARTIAL TRANSLATION OF DOCUMENT NOKW-688
PROSECUTION EXHIBIT 608

ORDER OF PANZER GROUP 3, 9 SEPTEMBER 1941, CONCERNING
THE TREATMENT OF PARTISANS AND PARTISAN FOLLOWERS

[Handwritten] Enclosure 11
Group Combat Post, 9 September 1941

Panzer Group 3
Section Ic/Counterintelligence Officer

Subject: Partisans in the replacement areas [Auffrischungs-
raeume]

Reference: Group Order No. 21, dated 7 September 1941

To:

7th Panzer Division, 1
14th Infantry Division (mot), 1
Training Brigade 900, 1
Qu.-Section Ic/Counterintelligence Officer (draft), 1
Extra copies, 3

* * * * *

In order to capture the harmless followers as soon as possible it would seem *expedient* to treat them extremely well in the presence of the civilian population (food and cigarettes) so that this will become generally known and fear of giving themselves up voluntarily will vanish. Executions are, therefore, to be carried out far away and unobtrusively insofar as there are causes for

suspicion of partisan activities; otherwise they will be sent away as PW's. The time during which they can give themselves up has been extended to 15 September (as stated on the leaflets). Rewards up to RM 25 may be paid to local inhabitants of *partisan followers* for information leading to the capture of partisans. (Payment of rewards must be approved subsequently by the division (see F. N. B1. 20, B II)).

If weapons are found in the possession of partisans or if public acts of violence are committed against the Wehrmacht, the partisans are to be shot or hanged by order of an officer and the reason for it is to be made known to the local population in a suitable manner. (For instance a sign could be hung around the neck of the partisans, stating: "This will happen to everybody who saws down a telegraph pole".) The same action is to be taken with regard to local inhabitants who support partisans.

* * * * *

FOR THE PANZER GROUP :

The Chief of the General Staff
[Initials] v. H.

PARTIAL TRANSLATION OF DOCUMENT NOKW-1316
PROSECUTION EXHIBIT 666

EXTRACT FROM WAR DIARY OF 18TH ARMY, 2 JULY 1941, CONCERNING REPRISAL ACTION AGAINST RUSSIANS IN RIGA

War Diary No. 4a

18th Army Command/Ia, begun: 21 June 1941—
closed: 31 December 1941

18th Army was subordinate to

Army Group North from 22 June 1941 until 31 December 1941.
The War Diary was kept by 1st Lieutenant Count Magni from 22 June to 18 December 1941, and by 1st Lieutenant von Behr-Negendanck from 19-31 December 1941.

* * * * *

2 July 1941

2215 hours: * * * The Commander in Chief reports from Riga as follows: 67 men were killed and 15 murdered of the advance detachment Lasch which had crossed to the east bank. The commander in chief has ordered that all Russians captured in Riga must be shot in retaliation.

PARTIAL TRANSLATION OF DOCUMENT NOKW-1578
PROSECUTION EXHIBIT 668

EXTRACT FROM WAR DIARY OF 121ST INFANTRY DIVISION,
7 OCTOBER 1941, REPORTING REPRISAL EXECUTIONS

Division Command Post, 7 October 1941

121st Infantry Div.

Section Ic

Ic—Report

* * * * *

Special incidents—Following the report of an inhabitant it was possible to arrest three partisans who were shot on 5 October. Papers belonging to members of our armed forces were also found in their possession; these will be forwarded to Corps Headquarters XXVIII Army Corps, separately. Ten civilians were shot on 6 October as a reprisal measure, after cables had again been cut in spite of a previous announcement, and the threat of the death penalty.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-1580
PROSECUTION EXHIBIT 670

EXTRACT FROM ACTIVITY REPORT OF XXVIII ARMY CORPS,
3 NOVEMBER 1941, CONCERNING REPRISAL EXECUTIONS

Corps Command Post, 3 November 1941

Corps Headquarters XXVIII Army Corps, Ic

Ic—Activity Report

Part III

* * * * *

At Tossno a fire broke out in a sawmill and destroyed all the machinery. The fire, however, was prevented from reaching the lumberyard. It must be assumed that this was an act of sabotage. As a counter measure, 13 persons (selected from persons refusing to work and from known Communists) were shot by the Security Service.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-1178
PROSECUTION EXHIBIT 694

TELETYPED REPORT FROM 17TH ARMY TO 11TH ARMY,
15 JANUARY 1942, CONCERNING SHOOTING OF PARTISANS

2325 hrs., 15 January 1942

Teletype Office: 11th Army

Teletype name HLG X/Fu current number 8153

Date: 15 January 1942

at: 2310

by: HZAX

via: Emelin

Teletype: from: HZAX/FU 673 15 January 1942, 2115.

To: 11th Army, Ic.

[Stamp]

11th Army Sect. Ic

15 January 1942

No. 23: 40

Evening report:

* * * * *

E. Up to 31 December 1941, the following results were achieved in the antipartisan warfare. Shootings after thorough interrogations: 1119.

Captured: 54 camps, 34 barracks ?, 21 machine guns, 8 tommy guns, 129 mines, 339 hand grenades, 93 kg and 1 box of explosives, 129 rifles, 13-50 rounds of rifle ammunition, 4 telephones, 2050 Molotov cocktails, 1 radio set.

17th Army Ic Counterintelligence officer.

Certified:

[Illegible signature]

PARTIAL TRANSLATION OF DOCUMENT NOKW-3346
PROSECUTION EXHIBIT 1510

EXTRACT FROM WAR DIARY OF 17TH ARMY, 27 FEBRUARY 1942,
REPORTING EXECUTION OF HOSTAGES

17th Army Command
Operations Section

Enclosure 1 to War Diary No. 2

Ic Reports of Army Corps from 13 December 1941 to
10 March 1942

* * * * *

Ic morning report of the XLIV Army Corps.

* * * * *

5. Five hostages were shot as a reprisal measure for a German sentry being fired on by civilians at Shabelkovka.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2501
PROSECUTION EXHIBIT 696

EXTRACT FROM 17TH ARMY REPORT, MARCH-AUGUST 1942,
DISCLOSING THE EXECUTION OF CIVILIANS AS SPY SUSPECTS

17th Army Command

Section Ic/Counterintelligence officer

Activity Report for the period 11 March-13 August 1942

* * * * *

All civilians who tried to cross our lines were shot on suspicion of espionage, since armed civilians had attempted last night to break through to the south near the mouth of the Torez river.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2916
PROSECUTION EXHIBIT 1305

EXTRACTS FROM REPORT OF 17TH ARMY, APRIL-JULY 1942, CONCERNING THE EXECUTION OF CIVILIANS BY SECRET FIELD POLICE AND THE EXECUTION OF PRISONERS IN GORLOVKA CONCENTRATION CAMP

17th Army Command, Operations Section Ic

Enclosure 1 to War Diary No. 3

Ic Activity Report Counterintelligence Officer from 15 March to 13 August 1942

[Handwritten] Enclosure XI to Activity Report Ic

17th Army Command

Section Ic/Counterintelligence Officer

Supplementary Volume XI to Activity Report—Activity Report Counterintelligence Officer.

* * * * *

24 July 1942—Transit camp 180 reports that *concentration camp Gorlovka* was dissolved on 22 July. Prisoners held there

partly handed over for labor assignments, partly admitted into PW camps, and partly liquidated. During the existence of concentration camp Gorlovka 1 March to 22 July 1942, 655 civilians passed through the camp; among them—released, 93; for labor assignment, 195; liquidated, 158; handed over to Security Service, 23; handed over to Secret Field Police, 5; escaped, 2; transferred to a civilian hospital, 2; died, 1.

* * * * *

3 May 1942—On account of a denunciation submitted by a confidential agent, Secret Field Police Staff Commissariat interrogates 6 alleged members of a destruction battalion. Secret Field Police interrogates the youth Jakunin and those persons who were accused by him of being partisans. It is proved that J. is a swindler. He will be liquidated because he admits that at a certain time he participated in attacks on Italian troops.

* * * * *

14 April 1942—Secret Field Police Staff Commissariat interrogates a civilian, who, at 1830 hours, loitered around near the motor pool. During the transport to the counterintelligence officer and to the Secret Field Police he tried to escape twice. Result of interrogation showed that he was an imbecile who could constitute a danger for the troops. He will be liquidated.

* * * * *

3 April 1942—Secret Field Police Staff Commissariat liquidates the Russian Simeon Jssajev on suspicion of having been a member of the destruction battalion and for unauthorized wandering around.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2561
PROSECUTION EXHIBIT 747

EXTRACT FROM WAR DIARY OF 17TH ARMY, 3 JULY 1942,
CONCERNING LIQUIDATION OF PARTISANS AND AGENTS

[Handwritten] War Diary
Army Combat Post, 3 July 1942

17th Army Command Secret
Group Ic/Counterintelligence Officer
File Number 1433/42 secret

Subject: Activities to date of the Counter Intelligence Unit II
To the OKW/Counterintelligence Department II

* * * * *

II. *From the moment of the arrival at the Dnepr* the activities of the II Counterintelligence Unit were mainly concentrated on antipartisan warfare.

* * * * *

The great number of partisans and agents liquidated by all participating offices (excluding the Security Service) (up to now many more than 6,000 persons) give a picture of the extent of the danger which was diverted from the troops.

* * * * *

FOR THE ARMY COMMAND

The Chief of the General Staff
[Signed] MUELLER

For information to—Counterintelligence Hq. II, with the Counterintelligence Group South

PARTIAL TRANSLATION OF DOCUMENT NOKW-2599
PROSECUTION EXHIBIT 697

EXTRACT FROM EVENING REPORTS OF SUBORDINATE UNITS OF 4TH
PANZER ARMY, 2 AUGUST 1942, REGARDING SHOOTING
OF MALE CIVILIANS OVER 15 YEARS OF AGE

Enclosure 2b to Ic—Activity Report

*Ic—Morning and Evening Reports of Subordinate Units of Panzer
Army 4 from 1 August 1942—30 September 1942*

Ic—Evening report dated 2 August 1942 IV Army Corps

A. Enemy continues strong opposition on both sides of the Sal Valley. Every settlement has to be searched house by house. Result—always hundreds of individually fighting prisoners. Obviously, Stalin Order No. 225, effective immediately, to hold every inch of soil until the last, has been communicated down to the last private with the corresponding results.

B. Enemy prepares again for defense near Atamanskoje at Mal. Kuberle. After strong opposition enemy was thrown back from Bratskaja Ssemja, approximately at 0900 hours. At present, heavy fighting around Oserki and Semenskinskaja, Kosinka, Frolov, and Savreljev cleared of rear guards who resisted tenaciously. Enemy was thrown back at Nishne Shiroff; there, south of the Sal, soldiers watering their horses were fired on. In heavy hand-to-hand fighting a unit consisting almost entirely of NCO's was annihilated.

the presence of some partisans was noticed about the middle of the month covered by this report. Quiet, however, was established in the area since a formation of Cossacks was transferred to Michailowka. On 14 August 1942, a train was derailed by a time bomb on railroad line Lotschinowo—Kursk in the vicinity of the first mentioned town. Two persons very strongly suspected of this deed were hanged, as well as two Russian railroad workers, who, at least knew of the presence of the explosives but failed to make a report. The guards repeatedly arrested suspicious persons and Red soldiers along this stretch of railroad and brought them to the nearest prison camp. Several of the arrested persons were shot while trying to escape. Numerous civilians, who could not establish their identity, members of the NKVD, as well as Red soldiers, were also arrested in the area south of the above mentioned railroad line and east of the road Kursk—Orel. Some of these persons who were trying to escape to avoid arrest were shot, the rest were handed over to a prison camp.

* * * * *

BY ORDER :

[Illegible initial] The Quartiermeister

Day, hour, location, and type of accommodation

Record of events

4 September 1942

I. In an order from 2d Army/Operations/Oberquartiermeister/Quartiermeister 2 [sic], dated 4 September 1942, reference is made to the importance of anti-band warfare as a substantial part of the conduct of warfare. The designation "partisans" is not to be used any longer.

Staff Headquarters in Kursk

The following are essential pacification measures:

* * * * *

7. Severe penal measures for member of bands. Prisoners in civilian clothing will be hanged; in uniform, they will be shot. They will be treated as fighting troops only in case of appropriate proof.

* * * * *

Enclosure 1

COPY

Secret

Headquarters, 4 September 1942

High Command of Army Group B—Ia No. 7142/42 secret

Secret

To 2d Army Command, 2d Hungarian Army through German Liaison Staff, 8th Italian Army through the German Liaison Staff Commander Rear Area, Army Group B,

For information to—6th Army Command—Staff Don

Independent of anti-band warfare with major troop units, important combat missions of a minor extent have often to be carried out by small, well-equipped and well armed raiding detachments [Jagdkommandos].

To this the High Command of the Army has suggested—

1. That every commander of an army rear area, every security division, and every other division employed in areas endangered by bands, immediately organize raiding detachments.

* * * * *

FOR THE HIGH COMMAND OF THE ARMY GROUP

The Chief of Staff

As deputy:

Signed signature

* * * * *

Secret

[Stamp] Secret

Enclosure

To High Command of Army Group B

Ia No. 7142/42 Secret, dated 4 September 1942

Directives for Raiding Detachments

* * * * *

2. *d.* If the prerequisites for surprise no longer exist, for instance, because inhabitants appear by chance, the chosen site

must be immediately abandoned if the troublesome witnesses cannot be eliminated silently.

* * * * *

[Handwritten] Enclosure 1
Commander of Army Rear Area 580—Qu—

Staff Headquarters, 15 September 1942

To 2d Army Command/Oberquartiermeister/Quartiermeister 2

Subject: Anti-band warfare

1. *Area around Michailovka.*—*a.* The members of the Riasanzev family (see report, commander of rear area, dated 11 September 1942, paragraph 2) admitted supporting bands. They were shot on 7 September. (581st Military Police [Report] dated 13 September 1942.)

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2276
PROSECUTION EXHIBIT 312

EXTRACTS FROM WAR DIARY OF COMMANDER OF ARMY REAR
AREA 580, OCTOBER 1942, CONCERNING EXECUTION OF
RED ARMY SOLDIERS AND DEPORTATION OF CIVILIANS

War Diary No. 16

Commander of Army Rear Area 580
(Command Authority, unit)

Started: 1 October 1942—Concluded: 31 October 1942

Commander of Army Rear Area 580 was subordinate from 1–31 October 1942 to the 2d Army

The War Diary was kept from 1–31 October 1942 by

Name and rank

[Illegible signature] 1st Lt

* * * * *

Staff Quarters, 3 October 1942

Enclosure 3

Commander of Army Rear Area 580
—Qu./Communications Officer

To 2d Army Oberquartiermeister/Quartiermeister 2

Subject: Anti-band warfare, area around Kshen.

* * * * *

In Borovka there are 58 strangers who, according to interrogations, are strongly suspected of participating in band activity; 27 of them were members of the Red Army, partly not yet reported and only arrived during the past few days. They were publicly shot. Eighteen resident members of the Red Army were transferred to the PW camp at Kshen, four men of the indigenous auxiliary police and one resident, formerly a Party member, were sent to the civilian prisoners' camp Razshovez via Feldkommandatur 239. *The Starost* [mayor] who promoted the organization of bands through his negligence in connection with the indigenous auxiliary police, and a woman who gave shelter to a bandit for several days, were publicly hanged. Thirty-four relatives of all the punished people were compulsorily evacuated and taken to a refugee camp via Feldkommandatur 239. A *new Starost* deputy and indigenous auxiliary police were appointed; the inventory of the evacuees was handed over to them for administration.

* * * * *

The SD in Kshen receives information of individual investigation.

2 Ic/Counterintelligence Officer

[Signed] LEIZINGER

PARTIAL TRANSLATION OF DOCUMENT NOKW-2361
PROSECUTION EXHIBIT 749

EXTRACTS FROM WAR DIARY OF COMMANDER OF ARMY REAR
AREA 580, OCTOBER-NOVEMBER 1942, CONCERNING EXECUTIONS
OF PARTISANS AND OTHER RETALIATORY MEASURES

War Diary No. 17

* * * * *

Headquarters Army Rear Area 580 was subordinate from 1-30
November 1942 to 2d Army.

* * * * *

Radio Message No. 27

16 October 1942

* * *

0805

During a search from the north to the south of the Opash woods on 15 October, by the 1st [Company] Cossack Battalion 580, a group of eight bandits and a 10 year old boy were driven to the southern border where they hid in the shrubs. In the evening hours of 15 October the bandits were arrested and shot by the blocking unit.

* * * * *

16 October 1942

Furthermore, a large number of suspects were shot in the neighboring villages.

* * * * *

Report on the progress of the operation 4-18 October 1942

* * * * *

A total of 65 bandits were killed in this action up to date, either in battle or while trying to escape. Although a large part of the bandits succeeded in escaping to the north, it has become quite obvious that a large part of the bandits had simply settled in the villages as innocent farmers, when the situation became dangerous. They had previously hidden their arms in the woods or in the villages. This is demonstrated by a case in which, at our entering the village, seven boys, ages from 14 to 25, walked around in women's clothing without being betrayed by the rest of the population. All the 91 male inhabitants of that village were shot. In another case, a sick man, who had a shot wound in the left leg was found in the quarters of some cossacks. He admitted having been wounded while trying to escape from the Medovij woods and that he had succeeded in reaching Michailovskij.

Meanwhile, several hundred suspects were seized and liquidated in the localities near Veretenino. Veretenino itself was set on fire.

* * * * *

Copy

Military Police Detachment 581
Staff

Local Headquarters, 10 November 1942

Experience Report concerning operation of Combat Group
Bergmeister

(Military Police Detachment 581)
from 3 October until 2 November 1942

* * * * *

After the carrying-out of the retaliatory measure around Veretenino, a militiaman reported that he could give us the names of 20 bandits in Makarovo. When we told him that Makarovo as well as its surroundings had already been pacified by parts of the combat group during the march on Weretenine, he informed us that these bandits were not ordered to fight, but merely to form an advanced supply base in the East. The subsequent action resulted in the capture of several civilians who vehemently protested

and stated under oath that they had never yet been in contact with the bandits. Only with the help of adequate beatings could a partial confession be forced from them for the first time.

* * * * *

When our troops entered, the village appeared quite peaceful. The people were very helpful. The search of the village had no results. In response to questioning of individual inhabitants of the village, whether any people from the village were or had been with the bandits, they assured us that nobody from the village had ever had anything to do with the bandits. As, on the following day, an action against Makarovo was carried out as a consequence of information received from arrested persons, some of these fellows had grown suspicious and had succeeded in escaping. The locality was encircled by surprise, and during this action the searching squad was suddenly fired on from a hollow about 200 meters east of the village. It was found out that these bandits, seeing no other way out, decided to take their arms from their hiding places and attempted to defend themselves. Approximately 60 bandits were shot during this battle; we had one wounded.

The village was completely burned to the ground. While this was going on, in nearly every house quantities of ammunition, hand grenades, and explosives were continuously exploding. Some of these detonations were of such intensity that our own troops had often to take cover for some time. All male inhabitants of this village were shot.

* * * * *

[Signed] BERGMEISTER
Captain and Detachment Leader

TRANSLATION OF DOCUMENT NOKW-2961
PROSECUTION EXHIBIT 1306

KEITEL ORDER CONCERNING ANTI-BAND WARFARE, 16 DECEMBER
1942; LETTER OF TRANSMITTAL AND DISTRIBUTION LIST,
29 DECEMBER 1942

[Handwritten] Anti-band warfare
[Stamp] Top Secret

Headquarters, 29 December 1942

Army Group Command B
Ia No. 4778/42 Top Secret

17 copies—6th copy
Ia [Illegible initials]

[Stamp]
Received: 1 January 1943
Section Ia No. 3/43/Top Secret
[Illegible initials]

Attached you will find an order for your information and further action.

Below corps headquarters level this order is to be destroyed after perusal.

Army commands and corps headquarters are responsible for ensuring that this order does not fall *into enemy hands*.

FOR THE ARMY GROUP COMMAND

The Chief of General Staff

BY ORDER:

1 enclosure

[Illegible signature]

[Handwritten] Commander of Army Rear Area—Especially for instruction of the units mentioned

[Initial] S [SALMUTH]

31 December

Distribution list:

Army [Armee-Abteilung] Fretter Pico, 1st copy
German General with Italian 8th Army, 2d copy
German General with Hungarian 2d Army, 3d copy
(simultaneously for 168th Infantry Division), 4th copy
Headquarters XXIV Panzer Corps, 5th copy
2d Army, 6th copy
[Handwritten] Copies to Corps Commander, Commander of
Rear Area, Oberquartiermeister, Ic
Commander of Army Group Area B, 7th copy
(at the same time for 382d Field Training Division) 8th copy
Garrison Headquarters Kharkov, 9th copy
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CinC of Army Group B:
Ia (War Diary), 12th copy
Ic, 13th copy
Signals Officer, 14th copy
IIa, 15th copy
III, 16th copy
Oberquartiermeister, 17th copy

[Stamp] Top Secret

Enclosure to Army Group Command B, Ia No. 4778/42 Top Secret
of 29 December 1942

Copy of copy
17 copies of original copy—6th copy

Headquarters, 16 December 1942
31 copies—2d copy

Chief of the High Command of the Armed Forces
No. 004870/42 Top Secret Armed Forces Operations Staff/Op
(Army)

Subject: Anti-bands warfare

Reports have reached the Fuehrer that some member of the armed forces engaged in anti-band warfare were later on called to account for their conduct in combat.

In this connection, the Fuehrer has issued the following order:

1. In the guerrilla warfare the enemy employs fanatical fighters trained in the communist ideology who will not shrink from any act of violence. This is now, more than ever, a matter of life and death. This struggle has nothing to do any more with soldierly chivalry or the regulations of the Geneva Convention.

If this war against the bands in the East and in the Balkans is not waged with the most brutal methods, the available forces will in the near future no longer be sufficient to overcome this plague.

For this reason the troops are justified and obliged in this combat to resort to all measures—even against women and children—without leniency, as long as they are successful.

Considerations of any kind are a crime against the German people and the soldier at the front, who has to bear the consequences of the attacks and who can have no understanding for any kind of leniency, towards the bands or their helpers. These principles must also be the rule when applying the "Directive for Anti-Band Warfare in the East".

2. No disciplinary action can be taken against a German engaged in anti-band warfare, nor can he be called to account before a court martial *for his conduct in fighting the bands and their helpers.*

The commanders of the troops assigned to anti-band warfare are responsible for ensuring that all officers in command of their subordinate units are immediately and thoroughly instructed concerning this order, that their legal advisers are at once informed

of this order, and that no sentences are confirmed which contradict this order.

Signed: KEITEL

Certified true copy:

[Illegible signature]

Captain

PARTIAL TRANSLATION OF DOCUMENT NOKW-473
PROSECUTION EXHIBIT 1523

EXTRACT OF REPORT FROM 2D ARMY, 2 APRIL 1943, CONCERNING
RECOMMENDATIONS FOR CHANGES AND SUPPLEMENTS
TO PAMPHLET "COMBAT DIRECTIVES FOR ANTI-BANDS
WARFARE IN THE EAST"

Secret

Army Headquarters, 2 April 1943

2d Army Command
Ia No. 967/43 Secret

Subject: Experience gained during anti-bands warfare

Reference: Teletype Army Group Center Ia
No. 2324/43 of 10 March 1943

To High Command Army Group Center

The following supplements are suggested for the pamphlet "Combat Directives for Anti-Bands Warfare in the East":

1. *To B II figure 11*—The confidential agents must be fully familiar with the locality of their assignment.

2. *To B II figure 12*—During interrogation of bandits, also women, all means have to be employed to obtain the necessary statements, interpreters are to be specially trained for the interrogation of bandits. It is frequently necessary to interrogate an individual bandit several times in order to get a result.

* * * * *

7. *To C V, Post-operational search*—After completion of every operation the entire area which has been mopped up has to be screened carefully once more for hidden bandits. The bandits prefer to hide in attics, barns, cellars, beneath floors, in forests, old positions, etc. Often only a repeated search will result in the capture of all bandits. Only the arrest of straggling bandits guarantees their not reuniting in a short time and forming new bands. If it is not possible to secure control of band-infested areas by stationing German troops or indigenous units in these areas, it is advisable to draft all persons fit for military service from 16 to

55 years and to transfer them compulsorily to the Reich for employment. In areas which are difficult to survey, such as forest and swamp areas it frequently is impossible to detect all remnants of bands; in such cases it is essential to deprive the bands of the possibility of getting food. For this purpose all supplies of the country are to be taken away; ration cards are to be issued to the remaining population for which they can be issued food for a short period from the stock which has been collected and which is kept under guard.

FOR THE ARMY COMMAND

The Chief of the General Staff

[Signed] HARTENECK

EXTRACTS FROM THE TESTIMONY OF DEFENDANT HOTH¹

DIRECT EXAMINATION

* * * * *

DR. MUELLER-TORGOW (counsel for defendant Hoth): This brings me to the last chapter within the discussion of count three of the indictment. This deals with the murder, ill-treatment and persecution of civilians as alleged by the prosecution. First of all I should like to deal with the so-called Barbarossa Jurisdiction Order which is in evidence as Document NOKW-209, Prosecution Exhibit 590.² This order, if I may briefly repeat here, consists of two parts. In the first part military and summary court jurisdiction is rescinded for Russian civilians in cases of offenses against the Germans, and the second part deals with the punishment of offenses by members of the German Armed Forces against the indigenous population. General, did you at that time receive that order, and was it passed on by your headquarters?

DEFENDANT HOTH: I received the order at the time, and I passed it on to the troops which were at the time subordinate to me. Those were, at the time, not all the troops which were later subordinate to me for the Russian operation, for Operation "Barbarossa" but I have no doubt whatsoever that those troops received the order from their superior agencies. This order was not sent to me through the customary channel, namely in a file containing all incoming mail, but it was submitted to me and orally reported to me by my judge advocate, and this judge advocate passed it on through the judicial channel down to the divisions. Of course, I am responsible for this passing on.

¹ Complete testimony is recorded in mimeographed transcript, 29, 30 April, 3, 4 May, 1948; pp. 3036-3289.

² Document reproduced above in section B 2.

Q. What did you know at the time about the origin of the order?

A. Nothing.

Q. And how did you interpret the order at the time?

A. I judged it from the military point of view, and in view of my knowledge of the Russian country and of the methods of warfare in Russia, I thought that the reasons for the order made sense because they did take into account the Russian conditions. But thoughts of any other intent, any criminal intent which might be the objective of this order, never entered my head. As far as I was concerned, it was merely an order which was necessitated by the conditions prevailing in Russia, and which took into account the conduct of warfare in Russia.

Q. What practical effect in your experience did that order have?

A. I don't think that at first, it had the effect which many feared it would have, which many judges had also feared it would have. It was not of such vast significance as the prosecution thinks. The inclination of the German officer to shoot people was a very small one. One could almost say that if it had been possible to establish courts everywhere the punishments would have been even more numerous. If the prosecution states that the German soldier is inclined towards slaughter, then that is not correct. That was a worry, I can assure you, which I did not have, and the events have borne out that this effect did not arise. The situation was not that every officer could order or carry out shootings as he wanted. Russian civilians were only shot if and when these civilians were guilty of having committed war crimes or when they had not followed orders which had been announced to them by posters under threat of death punishment, if they did not obey. That was the case, for instance, when they carried arms which was forbidden, because it was quite out of the question for civilians to carry arms in Russia without any evil intent on their part; or if they secretly crept through the German lines towards our enemy; or in cases where nonlocal residents loitering about in an area were further convicted of having committed offenses against the German Armed Forces. All these eventualities were provided for in this order and were correspondingly handled. There was no cause for intervention against the peaceful population, and the order was never applied against them.

Q. The first part of the Barbarossa Jurisdiction Order was, in your opinion, only concerned with purely physical attacks against the German Armed Forces, is that how you interpreted it?

A. Yes.

Q. In your opinion was it necessary for that to be regulated again?

A. As far as the soldier was concerned, the order wasn't really necessary at all, I mean the German soldier; because if a person attacked him he had to defend himself with his weapon, that was a peacetime principle which should have become part of his nature. It was necessary, of course, to instruct him about the special conditions which prevailed in Russia and to warn him to be particularly careful. Undoubtedly before the outbreak of war we knew of the conditions of civil war and partisan activities in Russia, and actually we imagined things to be even worse than they turned out to be in the beginning. Later on, these conditions were created artificially, and only then did this order take effect. At the beginning it only played a very small part as far as the soldier was concerned. This particular Barbarossa Order provided nothing else than that the soldier was to defend himself against an attacker immediately and render him unfit for further fight. That seemed perfectly justified to me.

Only in those cases where that did not happen was an officer to decide whether the man who had been brought before him was in actual fact the attacking party. That could only be done by a brief investigation on the spot, because then you would also have witnesses available; you could interrogate and examine the man who was charged as the attacker, you could hear the man who was attacked, and in that kind of an investigation you could clear up the matter. You could arrive at a result. I am fully aware of the fact and I'm fully convinced that the officer only arrived at a judgment when after all reasonable considerations it was discovered that the man really had forfeited his life. That is exactly what a summary court martial would also have done. The situation was that the troops did not actually realize that any change had been effected. They frequently reported or talked about summary court martial, and about people being executed after sentence by summary court martial, because the investigations were handled in exactly the same manner. Furthermore, you have to take into consideration that if you say—"Could every officer order such executions?", in the East we had so few officers that every lieutenant was in charge of a company. We could not afford to have another lieutenant in addition to the company leader. That was possible perhaps in the West; it was perhaps also possible in some regiments of the Panzer troops which were somewhat privileged in the supply of officers, but, as a rule, the lieutenant would be the company leader. In this capacity he had the responsibility for the lives of his 150 men; he did not take that lightly and he was not a beginner. He was a man who was able to make a judg-

ment and he would have been the very same man who would have had to make the decision in a summary court martial, because a summary court martial was to consist of an officer and two men. I actually believe, therefore, that you must not overestimate the effect of the Barbarossa Order.

[Recess from 30 April 1948, 1730—3 May 1948, 0930.]

* * * * *

Q. General, we had discussed the first part of this order, and I would like briefly to recapitulate. You stated that indigenous civilians who had committed some offenses against German soldiers were subject to a procedure, which in actual fact was the same as a summary court martial, is that correct?

A. Yes, it is.

Q. I should now like to deal with the second part of that order. According to this section, the judicial authority has to examine whether, concerning offenses of a minor nature, instead of a court procedure, disciplinary punishment seems to be adequate. Will you perhaps briefly comment on that provision?

A. This provision, that criminal offenses may also be punished in a disciplinary manner, was nothing new for the German Army. Already during peacetime there was the possibility for the judicial authority to pass criminal offenses on to the disciplinary superiors so that they could punish the person concerned. Power of disciplinary punishment in the German Army was very much larger, perhaps than in other armies. Already a young company leader could punish offenses by considerable sentences of arrest. It was, therefore, one of the most serious tasks of higher ranking officers to instruct the young officers to be very careful in handling these responsible tasks. Every punishment, even the smallest one, had to be registered into a large book where, above all, the reason for the punishment had to be clearly shown. It was the duty of the highest superiors to examine these punishment books and to check on them. That was a very troublesome task, but it was a very useful one. I believe that in this feeling of justice which developed in this way in the officers' corps we come to see one of the deepest reasons for the contrast between the officers' corps and the Party leaders. Thus, through the Jurisdiction Order there was by no means a vacuum created. It was not possible now for every soldier to commit arbitrary actions against the Russian population without punishment. Now, as before, he would be punished if he committed such offenses. In more complicated cases he was punished by a court martial procedure. I myself, as judicial authority, have been in charge of such cases. I do not believe that the soldier even realized that a change had been effected.

Q. This brings us to Document NOKW-1904, Prosecution Exhibit 67. In this document we are dealing with the Ic Activity Report of Panzer Group 3. There is some mention here about a conference in Warsaw in which apparently the Ic's and the army judges participated; the General for Special Missions, Eugen Mueller, conducted this conference. General, were you familiar at the time with this activity report?

A. No.

Q. Were you at the time informed that this conference took place in Warsaw?

A. Yes. My judge advocate, who participated in the conference, reported to me the results.

Q. If it please the Tribunal, in this connection I am going to submit an affidavit executed by General Eugen Mueller. The next document which I would like to discuss now is C-148, Prosecution Exhibit 611. Here we have the order of the Chief of the OKW dated 16 September 1941. It concerns the Communist resistance movement in the occupied territories. The most important aspect of this order is the order for reprisal measures in cases of insurgent movements. As reprisal for the life of one German soldier the execution of 50 to 100 Communists is considered necessary. General, did you receive that order at the time and if so, did you pass it on?

A. I did not receive that order at the time. During that period of time I was still commander of Panzer Group 3. I had no army rear area, and the matters which went on in the rear area of the army were none of my concern. Also we have here an order which is addressed to the armed forces commanders with whom I had nothing to do. I might further add that in the other positions, which I occupied later, I did not know of this order. Also I might state that this order was certainly not acted upon within my army area.

Q. Do you recall any reprisal measures at all?

A. I cannot recall that any were ordered at the time.

Q. I do not mean in connection with this order, altogether.

A. I cannot remember ever having received this order, and that it was ever complied with.

Q. Can you remember, independent of this order and the ratio ordered therein, a case of reprisal measures?

A. No. At one time something similar happened in the army area which might look like a reprisal measure. I do remember that

incident, but I remember it only now after I have seen the documents that were submitted.

Q. In Document NOKW-2599, Prosecution Exhibit 697,* we have an enclosure to the Ic Activity Report of the Panzer Army 4, covering the period from 1 August until 30 September 1942. In the evening report of 2 August 1942, it is stated according to this report, "Around Bratskaja Zelma, the civilian population participated in the fighting against our forces. Shooting of all the male civilians over 15 years of age was ordered and carried out".

A. Yes, I see that entry.

Q. General, do you know anything about this shooting?

A. I can no longer tell you today whether I knew about it at the time, as I can no longer recollect it today, or at least I couldn't recollect it any longer until I saw this document.

Q. Were you at the time shown this Ic activity report?

A. The Ic activity report which contained this report was certainly not submitted to me.

Q. How can it happen that this incident was reported in the Ic activity report?

A. That is quite obvious. We have here an Ic evening report of the 4th Corps.

Q. Actually, would your Ic have to report this incident to you?

A. It is so unusual, in view of the Russian conditions, that he ought to have informed me about it through the chief of staff.

Q. Would you have approved of that incident?

A. It is difficult to say that just on the basis of this simple and brief notation. I would have certainly had an inquiry put to the corps headquarters. If, after this inquiry, it had been revealed that male civilians were shot without having participated in the fight against us, the commanding general of the IV Corps himself would have intervened and punished the person responsible for the order.

Q. For what length of time was the IV Corps subordinated to you when the incident took place?

A. When the incident took place the corps headquarters had been subordinate to me for about 5 days. It had just joined the forces of the army. I knew the corps headquarters and the commanding general of the corps from the winter. The divisions which had now been added to my forces, however, were not known to me.

* Document reproduced above in this section.

Q. One question to conclude this incident; in order to illustrate it, how large was that place, Bratskaja Zemla, and how many men were shot altogether according to your estimate?

A. I don't know the place, Bratskaja Zemla, I cannot remember it at the moment. I only know the localities which are in that vicinity. They are very small villages. I would say, in order to express it the Russian way, that this village had 50 fireplaces or to put it differently, 50 stoves, 50 houses, 50 families, so that you could perhaps estimate that the male population was 50 men, perhaps a few more. Of these 50 men apparently some took part in the fighting. How many did that I don't know any longer today.

Q. The next document is NOKW-2423, Prosecution Exhibit 244. We have here an order of the High Command of the Army dated 24 July 1941. It concerns Russian prisoners of war, and it has been discussed here already in another context. In this other context you said General, that you did not receive this order, is that correct?

A. It is.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. FULKERSON: When did it first come to your attention that under the Barbarossa Jurisdiction Order a German officer could order a civilian to be shot on mere suspicion?

DEFENDANT HOTH: I learned of the provisions of the Barbarossa Jurisdiction Order when the judge advocate reported this order to me. It is quite certain that he didn't report it to me in such a way as to convey the impression that somebody was to be shot on mere suspicion. The suspicion, of course, had to be substantiated in some way, but they were certainly questions which the judge advocate didn't know quite clearly himself and which he wished to clarify, and which probably he did have clarified in Warsaw. It is quite possible that afterwards he told me the results of his efforts, but I cannot tell you now because I don't remember it.

Q. When in the same Ic report (*NOKW-2672, Pros. Ex. 598*)* in these notes which were kept at this conference in Warsaw, this phrase appears: "In doubtful cases suspicion will frequently have to suffice". Now that was what the Ic officer quoted General Mueller as having told him and your judge advocate at Warsaw. You

* Document reproduced above in section B 1 b.

don't recall having that explanation of the order given to you upon the return of your Ic officer and your judge advocate?

A. I cannot recall that. It was actually not the task of the Ic officer to report to me on that, because they were legal questions about which the judge advocate had to report to me.

Q. Now let's look at another document, NOKW-2385, which is Prosecution Exhibit 688. Have you found it?

A. Yes, I've got it.

Q. You are familiar with the document I assume. You testified about it during the direct examination?

A. I do know this document, since it has been submitted to me.

Q. Now, you will notice that in the first entry there for 7 July 1941, it states that, "Eight Communists, (Jews, including four women) were shot for sabotage, or inciting sabotage". Now the next entry reports three other people shot for possession of arms, that's 8 July. The 9 July reports that by order of the chief of staff, three Russians were shot for being in possession of arms. And on 12 July, ten persons were shot for sabotage on cables. When reports such as these were received by you, which mentioned no judicial proceedings in connection with these shootings, did you make any investigation to find out whether in fact any judicial proceedings had been held?

A. That all depended on the form in which I received these communications. This activity report which you just mentioned was not reported to me. All I know of the incidents mentioned is about the last ten persons and the cable sabotage. They were reported to me—not to me but to the Panzer Group—together with an Ic report. If I had had a suspicion then that any unlawful act had taken place, I would first of all had made an inquiry about it to inform myself, but in this case, where the XXIII Corps subordinated to the 9th Army was involved, and which was assigned to me merely for a transitory period, that would have been an unusual routine; because I knew that the same report was also submitted to the 9th Army, and it was merely sent to me by way of information, that is to Panzer Group 3. I do not believe that in this case I would have had any cause for intervention. It would have been different if it happened with a Panzer division which was subordinated to me. From the daily reports you could not gather whether an unlawful act had been committed, nor was that the purpose of the daily report. If, however, in the course of a long report in which the incident was described in more detail, I suspected that something might have happened which was not in order, then I

would have contacted the immediate superior concerned, to investigate the matter.

Q. But you didn't consider the fact that ten persons had been executed for damage to communication cables sufficiently excessive in its severity to warrant a complaint, or at least an inquiry by you?

A. I do not know whether I ever received this report at all, because it was channeled through the Ic and these reports were not submitted to me.

Q. I thought that you just said that you definitely remembered the cable sabotage incident?

A. No. I do not know it. I cannot recall these incidents. I stated before I could not recall the incident.

Q. Oh.

A. I have merely learned it from those documents.

Q. All right. Let's look at another one. This is Document NOKW-711, Prosecution Exhibit 692.* Now look at entry No. 20, and I quote "Two very suspicious looking men, probably partisans, were seized on 19 September in the region of Pashkovo, they were shot". Do you recall this incident?

A. Today I cannot recall this isolated case, because this document cites 25 different incidents which happened at the time, so that I cannot recall them now. Perhaps I may be allowed to state that to this document there must have been attached a map, and this here represents an elucidation of this map. The map in all probability indicated the localities, or the localities were underlined in which these incidents occurred. They were indicated by figures, and these figures corresponded with these elucidations. Therefore, these explanations are very brief. It was also not their purpose to check whether procedure according to law had taken place. It was merely to inform the superior, or whoever happened to see this map, and to convey the picture to him of where partisans had emerged. In order to appraise whether an unlawful action had been committed, it would have been necessary to question the officer concerned, or to ask him to turn over the files concerned. At the time I would not have thought it necessary on the basis of this simple statement to say, "Somebody here must be called to account, because some prohibitive act has taken place". I would have had to investigate first.

Q. Well, if you are assuming that these items were made for the purposes of enabling people in your headquarters to judge the

* Document reproduced above in this section.

partisan activities in different places, what could this add to your knowledge if you saw this entry? What more would you know about the partisan activity in this particular locality after you had read the entries than you did before you read it?

A. It is very difficult to say today, mainly because I would have to see the map which belonged to this report, which is not attached.

Q. Well, after you'd looked at the map, if you knew exactly where this village was, you would still only know that two suspicious looking men had been shot. Could you possibly tell any more than that from this?

A. Yes, certainly. Certainly, from a military point of view this map would have given me some idea as to where the partisan bands were.

Q. Well, how could you tell that these two men were partisans?

A. I cannot answer this question either, because at the time I was not on the spot.

Q. Well, did any doubt exist in your mind that those two men had been executed by the order of a German officer?

A. I do not know whether I ever saw the map that showed the incident. That is why I cannot answer your question.

Q. Well, does any doubt exist in your mind today?

A. I cannot answer this question. I do not know.

* * * * *

Q. Let's pass on now to the question of the partisans. I think first it would be a good idea to look at one of your basic orders on the subject. This is Document NOKW-688, Prosecution Exhibit 608. Do you remember this order?

A. I do recall now that it has been presented to me as a document, and I went through the order, but I no longer recall the details as they happened at that time.

Q. Would you like a moment to look at it before I ask you any questions about it?

A. If I may. I am ready now, sir.

Q. May I direct your attention to the second paragraph here: "If weapons are found in the possession of partisans or if public acts of violence are committed against the armed forces, the partisans are to be shot or hanged by order of an officer, and the reason for it is to be made known to the local population in a suitable manner. For instance, a sign could be hung around the neck of the

partisan stating "This will happen to everybody who saws down a telephone pole". Do you see that passage?

A. I have got it.

DR. MUELLER-TORGOW: If the Tribunal please, as far as I know, this paragraph is not submitted in evidence in the English document book.

PRESIDING JUDGE YOUNG: Is that correct or not?

DR. MUELLER-TORGOW: I am sorry; I am mistaken.

MR. FULKERSON: Did you, General, participate in the drafting of this order?

DEFENDANT HOTH: I hardly believe so because at that time I was deputizing for the commander of the 9th Army for a certain event; I no longer know the exact time when this took place; it may have happened to coincide with that period when I was deputizing. I believe however, that such orders were probably sent on to me by my chief of staff probably also to the 9th Army, before they were issued, but I can't tell that for certain.

Q. In other words, it's probable that you at least saw the order, if you did not participate in its drafting.

A. It's possible; it's possible.

Q. And you do not remember whether or not you participated in drafting it?

A. I can't say that; no.

Q. Returning to that last paragraph, the one I read a moment ago, was that a sample of the degree of punishment meted out to persons suspected of partisan activities, that is, anyone who cut down a telegraph pole should be hanged, with a card around his neck in three languages?

A. It was not handled quite in accordance with this order. In this case the partisans were hanged because they were in possession of arms and had committed acts of violence against the armed forces. The poster which was put around their necks, and which is only cited in this document as an example, was to be deterrent against the indigenous population and was to deter the indigenous population. One shows an offense which in itself would not have been punishable by death, but which clearly conveyed to the indigenous population, "If you cut down a telephone pole, you will be hanged". But this does not say that this was always translated into action. Other cases are mentioned in which the offender was to be executed, that is, if he possessed arms or committed acts of violence against the armed forces.

Q. And, in your opinion, a person reading this order could not also gather from it that it was permitted to hang people for cutting down telephone poles?

A. Not at all.

Q. Do you recall the concentration camp which was built by the 17th Army in November 1941?

A. I only heard of this concentration camp now through the documents. It was actually a prisoner of war camp which had been subordinate to the counterintelligence officer of the Ic in order to accommodate civilian internees. The details as how the Ic officer handled the prisoner of war camp were not brought to my attention at the time, during the course of the battle of Slavjansk. At any rate, I do not recall it; I do know that such a camp existed from the order which I myself had issued.

Q. Well, do you recall the permit which persons obtained when they were discharged from this camp—the little form that they were given?

A. No.

Q. I will hand you Document NOKW-1903,* which I want to introduce in evidence as Prosecution Exhibit 1506. I want you to look it over and then I will ask you a few questions about it.

JUDGE HARDING: What number?

PRESIDING JUDGE YOUNG: Exhibit 1506, Document 1903. Have you got a copy of it?

MR. FULKERSON: Unfortunately I haven't, so I will just have to read excerpts.

PRESIDING JUDGE YOUNG: Tell us what it's about while he is reading it.

MR. FULKERSON: It's an order issued from the High Command of the 17th Army, on 25 November 1941. It's signed by Mueller, Chief of Staff, and the subject is, "Establishment of a Concentration Camp at the Army Command". Then, attached to it as a supplement consisting of about four pages, which gave detailed directions for the treatment of the inmates of the concentration camp; that is the title of it—"Directions for the Treatment of Inmates of the Concentration Camp".

DEFENDANT HOTH: I believe I can answer you now.

MR. FULKERSON: Now, you notice there in paragraph 7 of the supplement where the form is given for the release from the

* Document reproduced immediately below.

concentration camp, it's stated that the first part of the release, identifying the person, giving his home address and the route he is to take from the concentration camp to his home, is to be written in both German and Russian; whereas, the last sentence says "*To be added only in the German language*—In case of diversion from the prescribed route he is a partisan or agent suspect and is to be shot immediately." What is the significance, do you suppose, of adding this last sentence only in the German language, whereas the rest of it was written in both German and Russian?

DEFENDANT HOTH: It's difficult to say why it was done; it's not an order of mine, and for that reason I first have to arrive at the underlying idea. The person of course was ordered to adhere to a certain route, and he was told that any deviation would be punished most severely. That he would be shot if he deviated from the prescribed route, I think that was quite clear to the person concerned.

Q. Well, why was that only put in in German, whereas the rest of it was in Russian, if it was made clear to him?

A. Nor do I understand it completely why it was added, but, of course, this addition was primarily provided for the German policeman, who might stop this person somewhere to check his identity. In this case the prisoner concerned would show his identification card; the German policeman would then examine whether he had kept the right route. Now, if he had deviated from the prescribed route, the policeman knew that he was to be shot.

Q. Now—

A. But of course the policeman was not allowed to do the shooting himself; the policeman had to present the man to a person who was authorized to do so, that is, he would have taken him along and turned him over to his superior police agency.

Q. Couldn't he ask the first German Army officer that he saw; wasn't he authorized to tell the policeman to shoot him if he wanted to?

A. On the strength of his identification, no, but on the strength of the Barbarossa Jurisdiction Order. But, it is quite impossible, according to my knowledge of German conditions, for a German officer to have had the person loitering shot immediately. He would certainly have turned him over to some agency or other which would have had more information than any officer who might have happened to meet him.

* * * * *

TRANSLATION OF DOCUMENT NOKW-1903
PROSECUTION EXHIBIT 1506

ORDER OF 17TH ARMY, 25 NOVEMBER 1941, DIRECTING THE ESTABLISHMENT OF A CONCENTRATION CAMP, AND ENCLOSURE,
A DIRECTIVE FOR THE TREATMENT OF INMATES

[Handwritten] KTB

Army Command Headquarters, 25 November 1941
17th Army Command
Group Ic/AO
Br. No. 4055/41 Secret

Enclosures: 1

Subject: Establishment of a concentration camp at the Army
Command

A concentration camp will be established at the Army Command.

Object and task—detention of persons suspected of being partisans or agents until they are proved guilty or innocent.

The concentration camp, as far as its assignment and object is concerned, is subordinate to the Ic/AO of the army, and in economic matters to the Oberquartiermeister. *Dulag* [*Transient PW Camp*] 180 has received orders to make investigations and to have the camp erected. Location in the area south of Kramatorskaja-Drushkovka. *Capacity* of the concentration camp, about 1,000 people, with a possible extension for 2,000 inmates. A separate place to be arranged for females. Special orders for the troops *guarding* the camp will be issued by the Army Command. The troops while on guard duty are subordinate to the camp commander. The camp must be ready for use by 5 December.

Attached are directions for the treatment of the inmates.

FOR THE ARMY COMMAND

The Chief of the General Staff
Signed in the draft: MUELLER

Certified:
[Illegible signature]
Major, GSC

Distribution:

Dulag 180

For information:

Headquarters IV Army Corps

Headquarters LII Army Corps

Headquarters XLIV Army Corps
Korueck
Ia
Ic/AO
AO, AO I, AO III
AO/Part.
Secret Field Police 13
Oberquartiermeister

Enclosure to Army Command [AOK] 17 Ic/AO Br. No. 4055/41,
Secret, 25 November 1941

Directive for the treatment of inmates of the concentration camp

1. Persons to be handed over to the concentration camp are *suspect vagrants* and suspect partisan elements from the army area, chiefly from the area of the IV Corps, and elements taken prisoners by the units of the AOK.

2. *While these persons stay at the camp* attempts must be made, by using confidential agents [V-Leute], to get *direct and clear information* of the past and the intentions, of the individual camp inmates. With this object in mind, the treatment of the camp inmates has to be as follows:

a. *Former members of the Red Army* are to be transferred to the prisoner of war camps.

b. *Commissars* will be subject to special treatment.

c. Partisans, agents, and their associates must be reported to the Ic/AO of the army for the card index file. He will decide as to their further treatment.

d. *Harmless vagrants* are to be discharged to their near-by home villages under bond of the newly-appointed mayors or commanders of the militias, after they have been duly warned.

e. Inmates who have their homes in the *occupied territories outside the operation area*, and who want to go home, must be kept in the camp for at least one month, and may then be discharged if they have conducted themselves properly.

f. Inmates having their homes in the *operation area*, or in the *not yet occupied territories of the U.S.S.R.* (except those under d), remain in camp until their place of destination in the occupied territory lies outside the occupation area.

3. *Treatment* must be severe but just. Any resistance must be suppressed immediately by the most rigorous measures. Attempts to escape are to be met with the immediate use of fire-arms.

4. *Otherwise, the inmates will be subject to the order issued concerning prisoners of war as far as food, guarding, and punishment is concerned. They must be used for labor purposes as much as possible, e.g., snow shoveling, road making, clearance work, females for kitchen and sewing work.*

5. *Commitment [Aufnahme].*

a. *Until further order, persons arrested by the IV Army Corps, except prisoners of war.*

b. *Persons arrested by the Secret Field Police, the SD [Security Service], and other control units of the Army Command.*

c. *Taking in inmates of concentration camps of the other corps commands will be ordered in each individual case. The offices handing over such inmates must furnish the reception camp commander with the reasons for the arrest and suspicions in each individual case also, if ascertained, with the names and statements of the proposed inmates. Receipts are to be given to the offices handing over such persons.*

6. *During their stay in camp, all inmates must be listed in a card index file, registering all interrogations, and also an indication as to their conduct. After each individual case has been cleared up, the camp commander must submit to the Ic/AO of the army, recommendations for discharge accompanied by a detailed but brief explanation of the reasons, in writing or verbally, on the occasion of Major Werner's visits to the camp. The camp commander is responsible for the recommendation of discharges.*

7. *Discharges can only be effected after receipt of a written order from the Ic/AO, or the AO. The persons discharged are to be handed a certificate of the following content, in the German and Russian language:*

*"....., of, Street.....
is herewith discharged from the concentration camp in
..... because He has to take the following
route, and he has to report at the mayor's office in authority
at"*

"Any digression from the route as ordered will be severely punished."

This permit must be submitted upon reporting at the home residence.

To be added, only in the German language—In case of diversion from the prescribed route he is a "partisan or agent suspect" and is to be shot immediately.

8. *Regulations for guarding will be issued by the camp commander to the guard units, which are likely to change frequently.*

The matter of guarding the outdoor workers must also be regulated in detail. Orders will follow concerning the assignment of Ukrainian militia for guarding purposes.

9. *Food* is to be applied for, in accordance with the rations for nonworking prisoners of war, at the AOK/Oberquartiermeister; part supplies to come from the neighboring community.

10. *Entrance to the camp* for civilians is forbidden on principle. Organs of the army intelligence departments will receive special permits entitling them to enter the camp.

11. *Propaganda*—The time in camp must be utilized as much as possible for anti-Bolshevist propaganda. Applications for the supply of propaganda material (newspapers, leaflets, gramophone records), must be submitted to the propaganda company. Access to radio facilities is recommended.

12. *The number of camp inmates* must be reported daily to the AOK (AO, Major Werner).

EXTRACT FROM THE TESTIMONY OF DEFENDANT VON SALMUTH*
DIRECT EXAMINATION

* * * * *

DR. GOLLNICK (counsel for defendant von Salmuth): I will now turn to the topic of antipartisan warfare. What about the partisan situation in the army area?

DEFENDANT VON SALMUTH: In the army area there were hardly any partisans at all.

Q. Now, how was that possible?

A. There were two reasons for this (a) I was lucky, in as much as mainly the territory to the east of Kursk, that is the center of the army area, was relatively open country. There were no big forests, no marshes, in which partisans and concentrations of partisans could have hidden. (b) I believe that the measures relating to the welfare of the population initiated by my predecessor and which I continued,—in fact, I saw to it that they were speeded up,—were so successful that supporting the partisans didn't even occur to the population, because they were working, and had their livelihood, and earned money, and had no interest in taking the side of the partisans.

Q. You talk about partisans. In other words, some of them did crop up in your army area?

* Complete testimony is recorded in mimeographed transcript, 12-14 May 1948, pp. 3899-4177.

A. Of course, now and then there were a few partisans. During my many trips across the whole of the army area to the front line and into the rear—I toured all this area and I went everywhere, I can assure you; in the winter, in November, when we moved near to Kursk, whenever I wanted to take a rest for half a day, I went by car with a Russian hunter driving into the thickest forests and marshes, into villages which had never been entered by a German soldier, and it never occurred to me that a partisan would possibly attack me. I think that I would have looked at such an attacker with great amazement, if such a person had confronted me.

Q. Now, what about the northwestern tip of the army area to the west of Fatezh?

A. Whereas $\frac{9}{10}$ of the army area was of the terrain which I described, there was a corner where it was rather different. That was the area to the west and northwest of Fatezh. This was so, for the following reasons. It was not that the partisans were located in the area itself, that is, in my army area, but these persons came across the boundary from the sector of the Second Panzer Army where conditions were much worse. In the large forests of Bryansk, in the large marshy areas, there were constantly large concentrations of partisans who threatened the rear area of the Second Panzer Army, and who also encroached upon my territory and made the country unsafe, and endangered the supply road and the supply railroad running from north to south from Orel to Kursk. In the boundary area of my army they made a nuisance of themselves by assaulting and killing a few German agricultural officials with their indigenous guards in remote localities, indigenous mayors whom we had appointed, and so on. To repeat, I may state that we had no partisans of our own, as it were, but partisans from other regions.

Q. Now, what about the type of warfare indulged in by these partisans?

A. I think I no longer need to go into the details. It was set forth in detail by the gentlemen who have preceded me on the witness stand. It was the same in our army. In autumn, for instance, there was great excitement in our area about the fact that a detachment of 10 military policemen had been attacked at night and murdered in the most bestial manner by the partisans. They were stripped of their uniforms and identification cards and thus, of course, the partisans could entrap German soldiers by camouflaging themselves as German military police.

Q. Did these partisans in any way comply with the essentials of a fighting formation?

A. No, in no way. They did not even comply with the simplest regulations provided for by the Hague Rules for Land Warfare.

Q. Were women and children also organized as partisans?

A. Unfortunately, yes.

Q. The prosecution has submitted Document NOKW-2961, Prosecution Exhibit 1306. What is this about?

A. It is a Hitler [Keitel] order relating to antipartisan warfare. It is one of the usual orders which tried to spur us on, from time to time.

Q. What was the attitude of your commanding generals and of the commander of the rear area to this order?

A. My commanding generals and the commander of the rear area knew exactly what was permissible in my army area and what was not permissible, and I believe that my commanding officers knew me quite well enough to know that transgressions of orders which emanated from me—that I could be most unpleasant if such transgressions occurred—and they all behaved accordingly.

Q. Now, who was in charge of antipartisan warfare in the area of Fatezh and the northwest of that area?

A. The commander of the Army Rear Area 580.

Q. What orders about antipartisan warfare were in existence when you took over the command of the Second Army?

A. A few days before I assumed the command, the [Second] Army had issued an order for antipartisan warfare which was submitted to me and which I fully subscribed to and put into effect. I myself fully complied with it. This order was so reasonable and decent that no objections could be made to it.

Q. What did it provide? In what cases were partisans to be treated as prisoners of war?

A. As soon as it could be ascertained that even one of the essentials provided for by the Hague Rules for Land Warfare was complied with, so that they could be recognized as legal combatants, they were to be treated as ordinary prisoners of war.

* * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT VON LEEB*

DIRECT EXAMINATION

* * * * *

* Complete testimony is recorded in mimeographed transcript, 19-22 April 1948; pp. 2277-2584, 7770-7771.

DR. LATERNER (counsel for the defendant von Leeb) : In paragraph 59 to 62 of the indictment you are charged with mass murder and other crimes. I have a number of questions to put to you in this connection. Field Marshal, did you give orders for shootings?

DEFENDANT VON LEEB: No.

Q. Did you order any excesses?

A. No.

Q. Did you order any collective punishment?

A. No.

Q. Did you take hostages and did you have them executed?

A. No.

Q. Did you have villages and towns burned down arbitrarily and wantonly?

A. No.

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS
GENERAL FRANZ MATTENKLOTT¹

DIRECT EXAMINATION

* * * * *

DR. GOLLNICK (counsel for the defendant von Salmuth) : In the same document, (NOKW-2538, *Pros. Ex. 630*)² you will find an order concerning the taking of hostages.

WITNESS MATTENKLOTT: Yes.

Q. For what reason was that order militarily necessary and justified?

A. Behind the front line there were innumerable atrocities being committed against the German Army and against members of the German Army. Means had to be found to defend ourselves against such atrocities. I believe that is the reason why it was ordered that hostages should be taken with all the consequences contained in the order.

Q. In the area of your division were hostages taken in accordance with this order?

A. Hostages were taken in accordance with this order, just as it was provided in the order—in every locality, in proportion to

¹ Complete testimony is recorded in mimeographed transcript, 19 May 1948, pp. 4233-4274.

² Document reproduced in section VII C 3, Case 12, vol. XI.

the number of inhabitants, which was comparatively small because most of the inhabitants had fled. I believe the figure was somewhere between 2 and 20.

Q. What kind of persons were apprehended as hostages?

A. Partisans, relatives of partisans, local authorities, and other important persons who played an important part in the village concerned, also any other suspects who had been reported to us by the population. That is what is stated in the order. In actual fact, I would like to repeat, there were never more than 20 people in one village.

Q. Were hostages actually shot?

A. In our area no hostages were shot.

Q. What happened to the hostages later on?

A. When the troops left the hostages were let go, or else, if another troop unit came to the place, they would be turned over to the next unit.

Q. What sort of concentration camps were the ones mentioned in the order where the hostages were put? How were they equipped; what did they consist of?

A. The camps which are provided for in this order cannot be compared with the camps which have become common knowledge through these trials. Next to the guard room there was another room, and in this second room the hostages were detained. They got food. It was a heated room, and I may perhaps mention that one hostage asked me to be allowed to remain with us as a hostage, because there on the southern edge of the Crimea he would otherwise have starved. Whether this request of his was granted I cannot tell you.

* * * * *

CROSS-EXAMINATION

DR. HORLIK-HOCHWALD: May it please the Tribunal: Witness, you have testified here to Document NOKW-2538, which is Prosecution Exhibit 630. Do you have the document still before you?

WITNESS MATTENKLOTT: No.
[Document handed to witness.]

Q. Will you tell the Tribunal whether I am right in saying that these documents consist of three orders; the first one of 21 November, signed by the defendant Salmuth; the second one of 26 November, signed by the chief of staff of the XXX Corps; and the third one signed by you.

A. Yes. That's right.

Q. It is further correct that you ordered that seven concentration camps should be set up in your area. Is that correct?

A. Yes. That is correct.

Q. How many, "Orts", [local] commanders were set up in your area?

A. Seven local commanders. You asked me how many? 1, 2, 3, 4, 5, 6, 7, 8—there must have been 8 local commanders.

Q. What was the rank, the average rank of an "Orts" commander?

A. The local commander would usually be a second or first lieutenant. One captain seems to have been among them.

Q. How many lieutenants, Witness, were with the units subordinate to you at that time?

A. How many lieutenants?

Q. Approximately.

A. Two hundred—but that's just a vague figure.

Q. At least 200. Is that right?

A. Two hundred, or less.

Q. So I presume that you could not know each and every lieutenant in the 72d Division very well personally?

A. No. Of the eight local commanders listed here, now that I read these names, I find that I only know the last one, Captain Martens.

Q. So you could not know if these people actually shot ten hostages for one killed German or Rumanian soldier, could you?

A. No. I couldn't know that. I may perhaps add, the local commanders were not selected according to their capabilities. They were selected in accordance with the billeting of the troops. If Captain Martens of Antitank Battalion 72 was local commander of Foros, that would mean that his unit was stationed there, and, since he was the senior officer, he became the local commander.

Q. As a matter of fact, and that was my question, you do not know whether these "Orts" commanders shot hostages on the basis of this order or not?

A. As far as I know—and I could almost state it on oath—no hostage was shot. I cannot, however, swear to it.

Q. You have said that it is correct to kill dispersed soldiers as it is ordered in the order of the defendant Salmuth of 21 November. Had you handed down this order to the unit subordinate to you, Witness?

A. It must be assumed that I passed on the order with corresponding additional remarks.

* * * * *

3. KILLING OF GYPSIES, INSANE, AND SICK PEOPLE

PARTIAL TRANSLATION OF DOCUMENT NOKW-2111
PROSECUTION EXHIBIT 296

EXTRACT FROM REPORT ON PARTISAN ACTIVITIES BY THE COMMANDING GENERAL OF SECURITY TROOPS AND COMMANDER OF REAR AREA ARMY GROUP NORTH, 1-15 JUNE 1942, CONCERNING THE SHOOTING OF GYPSIES

* * * * *

In the zone north of Novorzhev, 7 June 1942

128 gypsies shot after investigation because of assistance to the partisans.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2072
PROSECUTION EXHIBIT 682

REPORT AND ORDER FROM 281st SECURITY DIVISION, 23 JUNE 1942, CONCERNING SHOOTING AND TREATMENT OF GYPSIES

[Report]

COPY

Ostrov, 23 June 1942

281st Security Division
Sect. Ia/Ic/VII-297/42

To the Commander Rear Area Army Group North, Section VII, in Voru

Report concerning the shooting of gypsies in Novorzhev

The following report is submitted concerning the shooting of 128 gypsies in Novorzhev.

In the second half of May a considerably increased number of partisans made their appearance in the area of Novorzhev which had already had to suffer continually from the activity of partisans. The activity of partisans especially increased in the neighborhood of Vibor (map 1: 100,000 2 kilometers east of Derevizy, which is 24 kilometers north of Novorzhev. The presence of partisans was established in four different places in this area between the 20 and 26 May. On 26 May, a motor-vehicle belonging to the armed forces was attacked on the emergency highway from Novorzhev-Pushkinskiye Gory and the executive officer of the Ortskommandatur I (V) 265 in Novorzhev, Lieutenant Hall, wounded.

At the same time gypsies were loitering in the areas mentioned. They had not registered, had no regular work, and managed to live by begging their way from place to place; they had no fixed place of residence and constituted a burden in every way.

The general experience, not limited solely to Russia, that gypsies are especially suitable as agents on account of their nomadic form of life, and that they are also almost always willing to render such services, has also been confirmed again in Russia. Since, therefore, the possibility existed from the start that the gypsies were connected with the increased activity of the partisans, their arrest and screening was ordered.

The inquiries carried out by the Secret Field Police showed that among the persons arrested there were many men of draft age who had not been drafted. Furthermore, it was established that a number of the gypsies who were shot, who were of draft age, had at the approach of the German troops in July 1941, left the areas in which they had hitherto been and had stayed in the neighborhood of Cholm whence they had returned only a short time before.

* * * * *

As it [the order of Feldkommandatur 822 concerning the treatment of gypsies] does not correspond to the directives given, especially to the order of the Commanding General and Commander in the Army Group Area North dated 21 November 1941/VII-1045/41, the Feldkommandatur 822 was instructed to rescind this order and to proceed against gypsies in future in accordance with the stipulations of the above-mentioned order, insofar as gypsies who had been arrested are not convicted beyond a doubt of partisan activity or of aiding the partisans.

Summing up, the division reports that considering all the circumstances, in spite of the existence of formal misgivings in this exceptional case, the shooting of the gypsies must be regarded as really justified materially especially since no more attacks have taken place in this area since the shooting was carried out.

Signed: SCULTETUS

Brigadier General and Deputy Division Commander

For information:

Ic Secret Field Police

Certified true copy:

[Illegible signature]

War Administrative Inspector

COPY

[ORDER]

Ostrov, 23 June 1942

281st Security Division

Ia/Ic/VII-298/42

To the Feldkommandatur (V) 822 in Ostrov

Subject: Treatment of gypsies

Reference: Feldkommandatur 822 Ia secret, 12 May 1942

The order referred to, which says that gypsies are *always* to be treated as partisans does not comply with the regulations issued. If gypsies are convicted of partisan activity they are to be treated in accordance with the order of the Security Division Section Ia, 6 January 1942; if they are not convicted of partisan activity, they are to be treated according to the stipulations of the commander's decree, 21 November 1941, VII 1045/41 communicated with order of the Division Section VII, 28 November 1941.

The order of the Feldkommandatur, 12 May 1942, is therefore to be rescinded. The abrogation is to be reported to the division when it has taken place. Further, a report is to be furnished giving the reasons why the order, at variance with the regulations issued, was published.

Signed: SCULTETUS

Brigadier General and Deputy Division Commander

Certified true copy:

[Illegible signature]

War Administrative Inspector

TRANSLATION OF DOCUMENT NOKW-2022
PROSECUTION EXHIBIT 977

DIRECTIVE FROM 281ST SECURITY DIVISION TO FELDKOMMANDATUR
822, 24 MARCH 1943, CONCERNING THE HANDING OVER
OF GYPSIES AND JEWS TO THE SD

Ostrov, 24 March 1943

281st Security Division Section VII/Ia

File No. 457/43. Secret

[Stamp] Secret

Subject: Gypsies and Jews

Reference: Ortskommandatur 534, File No. 193/43, secret, 22
March 1943

To Feldkommandatur 822

According to the order of the commanding general, 2 November 1941—VII 1045/43—nonmigratory gypsies who have already resided at their place of residence for two years, and who are politically and criminally nonsuspect, are to be left where they are; whereas migratory gypsies are to be handed over to the nearest Einsatzkommando of the Security Service.

Jewish affairs are also to be handled by the Security Service. However, concerning the Jewish doctors it would be necessary to request comment from Section IVb, as to whether or not they are indispensable as key personnel.

The competency of the military offices is limited to the, "handing over" [zuzufuehren], of gypsies and Jews to the Security Service, which will take the further necessary steps according to its own instructions. A cooperation of military authorities in the possible liquidations of gypsies and Jews by the SD as a political measure is not provided for anywhere and is rejected.

Paragraph V of the Commander's decree, 13 March 1943, does not constitute an alteration in respect to the present regulations, since it only states that the Security Service is not entitled to shoot the local population on account of *criminal* acts.

For information:
Section VII

[Illegible initial]

PARTIAL TRANSLATION OF DOCUMENT NOKW-3140
PROSECUTION EXHIBIT 1359

EXTRACTS FROM THE DIARY OF GENERAL HALDER,
SEPTEMBER-NOVEMBER 1941

* * * * *

21 September 1941, General Wagner (Generalquartiermeister)*.

a. * * *.

* * * * *

d. What to do with inmates of mental institutions in occupied territory.

* * * * *

* Chief of supply and administration in the High Command of the German Army.

26 September 1941, General Wagner (Generalquartiermeister).

* * * * *

a. * * * .

h. Mental institutions in Army Group North. Russians regard the feeble-minded as sacred beings. Killing them is necessary, nevertheless.

* * * * *

2 October 1941, Gen. Wagner—a. PW matters. Screening out of dangerous elements by Himmler impossible in combat zone, only in the rear. There probably best under responsibility of OKW.

* * * * *

12 November 1941, Minsk—Commander of Security Div., von Bechtolsheim, the railroad district director, and the district police commander pay their respects.

Tour around Minsk, almost completely destroyed by shelling; is still holding one-half of its population (still more than 100,000). See scenes of PW misery.

* * * * *

14 November 1941, Return trip—Stop at *Molodechno*. Long talk with commander of local Security Regt. (Simmelmann) and the battalion commander. *Molodechno*—typhus camp of Russian PW's (20,000), all doomed to die.

Several German doctors have been killed by disease. In other camps in the vicinity is no typhus, but many prisoners die daily from starvation. Ghastly picture, but no improvement seems to be possible at the moment.

Stopover at *Oszimiana*. On neighboring track is a transport of the cavalry division. The men look completely played out.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-2268
PROSECUTION EXHIBIT 678

EXTRACTS FROM XXVIII CORPS ACTIVITY REPORT AND CORRESPONDENCE FOR PERIOD 7-26 DECEMBER 1941, PERTAINING TO LIQUIDATION OF INSANE AT MARKAREVSKAJA ASYLUM

Corps Headquarters XXVIII, Army Corps Ic
*Activity Report for the period from 29 November 1941 to
9 May 1942*

(Enclosures 1-93) (pages 1-58)

* * * * *

On 7 and 8 December—The Ic of Corps Headquarters and SS Captain Hubig exchanged results and experiences in the anti-partisan warfare.

At the same time the problem of the insane asylum located in the former monastery Markarevskaja-Pustinj was broached. There are about 240 patients, mostly syphilitics and epileptics from Leningrad, in that insane asylum. They are cared for by a nurse and an assistant. The food situation in the asylum is catastrophic. In these circumstances agreement was reached to the effect that the monastery and its inmates might easily constitute an acute danger of epidemics for the troop units stationed around there. 18th Army Command is first to be consulted as to remedial measures to be taken. (Encl. 5.)

* * * * *

Owing to the new border line drawn between the I [Corps] and the XXVIII Army Corps, the monastery Markarevskaja-Pustinj falls within the area of the I Army Corps. In answer to telephone inquiry, Corps Headquarters I Army Corps, states that it concurs with our solution of the problem. (Encl. 5.)

* * * * *

Command Post, 2 December 1941

Security Police and Security Service
Kommando Hubig
Diary No. 32/41

To the Chief of Einsatzgruppe A of the Security Police and the Security Service
Krasnogvardeisk.

Subject: Insane asylum in Markarevskaja

In Markarevskaja, 20 kilometers north-northwest of Lyuban, there exists since 1936 a so-called home for invalids situated in the rooms of a former monastery. The inmates were mainly mentally defectives, but also epileptics, syphilitics, etc. At present there are still about 230 to 240 persons in the home, all female.

These incurable patients are cared for solely by a female assistant physician and a female supervisor. Some of the patients are confined to bed, others are moving about freely in the environs of the asylum, which is not barred to the outside in any way. The food supplies are nearly exhausted. Medicines are practically nonexistent. The assistant physician stated that she was lacking all control over the patients. Some of them are said to have already

left the asylum. The assistant physician sees in this exodus a danger for the civilian population of the surrounding villages as well as for the village of Markarevskaja itself, where there are still about 150 civilians. Apart from the possibility of the population being infected with venereal diseases, etc., there is the danger of starting and spreading epidemics.

The surgeon of the 2d SS Infantry Brigade, SS Major Dr. Blies, considers an immediate intervention on the following grounds necessary: The patients represent a danger not only to the civilian population but, above all, to the German soldiers. Once the last supplies are used up the patients will even break out. With patients of this type it is even possible that they may attack other people. Apart from that they might infect other people with additionally occurring diseases such as typhus, etc. Unless this source of danger was removed, for medical reasons he would have to demand the withdrawal of the SS units allocated for partisan combat in that area.

The conditions found in Markarevskaja and their possible effect were brought forth during a consultation with the competent Ortskommandant in Lyuban, Major Count Westphal. The Ortskommandant does not consider intervention necessary at this point. He held the view that the patients would leave the asylum only slowly. In the adjacent villages there was no more food anyway, so that the patients would either be liquidated by the civilian population or brought back to the asylum.

A checking of the conditions is requested. We suggest consultation with the army and, at the same time, stress the urgency of the matter.

[Signed] HUBIG
SS Hauptsturmfuehrer

[Handwritten notes]

Submitted to XXVIII Army Corps, Section Ic for information and return.

[Signed] HUBIG

Corps Combat Post, 20 December 1941

Corps Headquarters XXVIII Army Corps
Section Ic
To 18th Army, Section Ic
Subject: Insane asylum in Markarevskaja

In Markarevskaja, 20 kilometers north-northwest of Lyuban, there exists since 1936, a so-called home for invalids situated in

the rooms of a former monastery. The inmates under care are mainly mentally defectives, but also epileptics, syphilitics, etc. At present there are still about 230 to 240 persons in the home, all female.

These incurable patients are cared for solely by a female assistant physician and a female supervisor. Some of the patients are confined to bed, others are moving about freely in the environs of the asylum, which is not barred to the outside in any way. The food supplies are nearly exhausted. Medicines are practically nonexistent. The assistant physician stated that she was lacking all control over the patients. Some of them are said to have already left the asylum. The assistant physician sees in this exodus a danger for the civilian population of the surrounding villages as well as for the village of Markarevskaja itself, where there are still about 150 civilians. Apart from the possibility of the population being infected with venereal disease etc., there is the danger of starting and spreading epidemic.

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To allow this definite source of danger to remain immediately behind the advanced lines of the winter positions and in the vicinity of the troop billets appears untenable.

An additional factor is that even according to German conception the inmates of the asylum no longer represent objects with lives worth living.

This problem has already been discussed with the army corps' Ic. The I Army Corps fully agrees with the viewpoint of the XXVIII Army Corps.

The Security Service Detachment Hubig, in Tossno, declared itself willing to carry out the requisite measures. They will be carried out with the aid of Russian physicians at its disposal. The Security Service Kommando Hubig only requests the appropriate consenting instruction of SS Brigadier General Stahlecker which corps headquarters requests you to effect.

FOR THE CORPS HEADQUARTERS

The Chief of the General Staff

[Illegible signature]

[Handwritten] Copy on 21 December to the 269, 70, Ic.

[Illegible initial]

To 18th Army Ic

The matter has been settled.

*On 25 and 26 December.*¹

* * * * *

The commander in chief assented to the solution of the problem of the asylum in the former monastery Markarevskaja-Pustinj in the manner proposed by section Ic in agreement with Kommando Hubig of the Security Service. The Security Service will receive the appropriate instructions for the implementation directly from Brigadier General Stahlecker with the army. (Encl. 5.)

* * * * *

Corps Headquarters XXVIII Army Corps
Section Ic

[Handwritten]

Corps Headquarters
XXVIII Army Corps Sect. Ic
Activity Report 1942. Enclosure 5.
Corps Combat Post, 3 January 1942

Reference: Corps Headquarters XXVIII Army Corps Ic,
20 December 1941

Subject: Insane asylum in Markarevskaja

The matter has been settled.

FOR CORPS HEADQUARTERS

Chief of the General Staff

[Illegible signature]

To 18th Army Section Ic

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON KUECHLER²

DIRECT EXAMINATION

* * * * *

¹ Final entries in XXVIII Corps Activity Report, 29 November 1941–9 May 1942, pertaining to liquidation of insane at Markarevskaja Asylum.

² Complete testimony is recorded in mimeographed transcript, 27–29 April 1948, pp. 2787–3002.

DR. BEHLING (counsel for defendant von Kuechler) : I shall now put to you Document NOKW-2111, Prosecution Exhibit 296.¹ What is this particular document about?

DEFENDANT VON KUECHLER: It is a collective report concerning partisan activities from 1-15 June 1942. The report was compiled by the Commander of the Rear Area of Army Group North. It says here on 7 June, that 128 gypsies were shot as partisan helpers on the basis of investigation in the area of Novorzhev.

Q. To whom was that report addressed, and did you ever see it at any time?

A. No, I didn't. You cannot gather from the document to whom the report was addressed, as the heading shows it was a tabulation of partisan activities during the period of time from 1-15 June 1942.

Q. Is it possible that report went to the army group?

A. It is possible that it is a statistical compilation about incidents connected with the partisans and about anti-partisan warfare which may also have been sent to the army group. I cannot remember, however, that this report was submitted or orally reported to me at any time. The evaluation of such a compilation was the duty of the Ic.

Q. Is it revealed from that report that those gypsies were shot arbitrarily or for ideological or political reasons?

A. No. It is expressly stated here that the compilation deals with partisan activities. It is stated here, under the date of 7 June, that the gypsies were shot after investigations had been made.

* * * * *

Q. Now, that will bring us to Document NOKW-2072, Prosecution Exhibit 682.² What is revealed by that report?

A. As is shown by this report, General von Roques, Franz von Roques, who was known to me as a very reliable and conscientious officer, has thoroughly investigated this incident, apparently on his own initiative. It still deals with the same incident concerning 128 gypsies.

Q. Did you know this last report?

A. No. The division sent it to the army group, rear area and it therefore could not have reached me at any time.

¹ Document reproduced above in this section.

² Ibid.

Q. I believe that brings us to the end of this particular incident.

* * * * *

Q. This brings me to Document NOKW-2268, Prosecution Exhibit 678.* In submitting this document the prosecution, as is revealed by the indictment, wants to prove your complicity in the extermination of 240 mentally defective, syphilitic, and epileptic women from the insane asylum in Markarevskaia-Pustinj in the area of the XXVIII Corps, which was subordinate to you. Of how many parts does that document consist?

A. The document consists of four parts.

Q. What parts are they?

A. It is a report from the SD Commander Hubig addressed to the chief of the Einsatzgruppe and an excerpt of the activity report of the XXVIII Corps Ic to the 18th Army Ic, of 20 December 1941 and the report of the XXVIII Corps Ic to the 18th Army Ic, of 3 January.

Q. Was that document or one of its parts known to you before you saw it in Nuernberg?

A. No. Before I arrived here and before I was shown these documents, I did not know any one of the four parts of this document.

Q. To what agency was the report of the Security Service, dated 2 December, sent?

A. That report went to the superior agency of the Security Service to Berlin. I would think so.

Q. Was that agency subordinate to you?

A. No. Of course not. It was not subordinate to me.

Q. How about the activity report?

A. The activity report of the Ic of the XXVIII Corps was an internal affair of the XXVIII Corps and belonged to the war diary of the XXVIII Corps.

Q. Were such war diaries submitted to you at any time?

A. No. The war diaries of the corps, the divisions, or of subordinate troop units were not submitted to me.

Q. Did you see the report of the Ic of the XXVIII Corps, addressed to the 18th Army, Ic of 20 December 1941?

* Document reproduced above in this section.

A. No. I saw the photostatic copy, but I did not receive the report. If I had, I am sure I would have initialed it.

Q. Does the same apply to the reports of the Ic of the XXVIII Corps to the 18th Army Ic of 3 January 1941?

A. Yes. It applies to that also.

Q. Was the whole incident, or the whole matter, ever reported to you orally?

A. No. It was not at any time reported to me orally.

Q. If it had been, who would have reported to you?

A. That would have been the chief of staff of the army or the Ic of the army.

Q. Who was the chief of staff?

A. During that period of time it was Colonel Hasse, who has been mentioned earlier and who in 1945, died in Breslau as a consequence of a sickness he had contracted in the war.

Q. And the Ic?

A. That was Colonel Richter, and, as far as I remember, he is a Russian prisoner of war.

Q. Who else could have informed you about that incident?

A. Probably the commanding general of the XXVIII Corps or his chief of staff or the commanding general of the I Corps, or his chief of staff.

Q. Why the commanding general of the I Corps?

A. Markarevskaja-Pustinj was situated in the area of the XXVIII Corps, but close to the borderline of the area of that corps and for certain periods of time it must also have been part of the area of the I Corps.

Q. During the period of time at issue, that is, in December 1941, were you during your trips to the front ever in areas of the I or XXVIII Corps?

A. Frequently during that period of time I visited the XXVIII Corps as well as the I Corps, along the whole front line, that is, the front which goes from Leningrad via Schluesselburg to the North. This [witness pointing out on map] is where the XXVIII Corps was committed, and the I Corps was here, and this is where the heavy battles were raging in December; during that time I was almost daily with the XXVIII Corps or with the I Corps.

* * * * *

Q. Did one of the commanding generals of either the XXVIII Corps or I Corps or one of their chiefs of staff inform you orally concerning the incident at issue?

A. No. I said that neither the commanding generals of the XXVIII or the I Corps nor their chiefs of staff informed me.

* * * * *

Q. Now, did the chief of Einsatzgruppe A, SS Brigadier General Stahlecker, inform you?

A. No. I did not see SS Brigadier General Stahlecker and he did not inform me, nor was he subordinate to me.

Q. Field Marshal, how do you explain, then, the entry in the war diary of the report of the Ic of the XXVIII Corps, dated 25 and 28 December 1941, which states that the commander in chief gave his consent?

A. I cannot explain that entry at all. I can only suppose, I can only hazard a guess, that my official designation of commander in chief [Army Group] was mixed up with the designation of the commander of the army [AOK]. Such errors unfortunately occurred. The entries were made by young officers, some of them were reserve officers, and as I said, heavy battles were raging all over the place and the period of time was a very difficult one. The people were overburdened and under a strain, and thus it is possible that an error might have occurred in the entry.

Q. You said, Field Marshal, that the incident was reported to you neither by the officers concerned of the army staff nor by one of the commanding generals of the corps or their chiefs of staff, nor did you hear anything about it from SS Brigadier General Stahlecker. In that event could you give your consent at all?

A. No. Since I was not informed at all of the incident, since I knew nothing about it, it was not possible for me to give my consent. The chief of staff, Colonel Hasse, and the Ic who would have been the people to inform me, were most reliable and conscientious. I held both of them in high esteem. I can only suppose that owing to the fact that officers were over-burdened during that time—it was a very severe winter and the most heavy battles were being waged—all of us were physically worn out and under strain and I can only suppose that because of this they failed to inform me.

Q. One possibility remains, Field Marshal. Was the Ic of the XXVIII Corps known to you, and wasn't it possible that he informed you or your chief of staff, Hasse?

A. I did not know the Ic of the XXVIII Corps. Even today I don't know his name, but it would have been unusual, actually it would have been impossible for the Ic of a corps to telephone the commander of an army without the permission of his commanding general or, not even without permission, without the express order, of the commanding general—and the commanding general knew nothing about it.

Q. In view of your knowledge of the situation today, did any measure at all need to be taken against the inmates of that insane asylum?

A. Yes, certainly. As I heard just now for the first time, Markarevskaja-Pustinj was not located directly behind the front, but actually in the fighting zone. The inmates who were women with terrible illnesses, presented a danger to the troops and of course they couldn't remain there. It was necessary, therefore, somehow to transport them west. If I had heard about the whole matter, I would most certainly have found a way out or a solution to transport these 240 inmates somewhere into the army rear area.

JUDGE HALE: You know of no justification for the execution of these women?

DEFENDANT V. KUECHLER: No.

DR. BEHLING: You don't know the whole incident?

A. No. I don't know the whole incident. When I heard this charge for the first time, it moved me considerably. It is one which is outside the normal events of war. It touches my feeling of humanity. Even after I heard about the incident here in Nuernberg, I had plenty of opportunity, days and nights, to search my memory. I found no indication in my recollection of even a trace of a knowledge of that incident at the time.

* * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS
FRANZ HALDER*

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Witness, I will now restrict myself to Army Group North. Do you know about the execution of inmates of mental institutions in the army group under the command of Field Marshal Leeb?

* Complete testimony is recorded in mimeographed transcript, 12-16 April 1948; pp. 1817-64, 1867-2156.

WITNESS HALDER: I do not know that they were shot, but I do know that the problem of the evacuation of insane asylums was discussed, because Wagner reported this to me.

Q. Yes, he did. Let me put your diary to you so we will be very clear about this. Witness, will you find the entry in your diary of 21 September 1941?

A. 21 September. Yes. I have got that. It says here that as a topic for report the evacuation of insane asylums in occupied territories—.

Q. Doesn't the entry read, "General Wagner (Generalquartiermeister)", paragraph d: "What to do with inmates of mental institutions in occupied territory"?

A. That is the substance of that notation.

* * * * *

Q. Now, Witness, what is the sense of this entry of 26 September 1941?

A. The substance is the following: The Generalquartiermeister, who was General Wagner, once more pointed out to me a question which had been touched upon earlier on, namely, the question of the mental institutions in the northern area of the eastern front. He had received information to the effect that the Security Service had certain intentions in connection with the mental institutions, and thereupon he asked me what my attitude was concerning this problem. Then he made the following statement, "The Russians regard the mentally insane as sacred persons". In spite of this, in the circles of the Security Service it is deemed necessary to eliminate these mentally insane. Thereupon I told him at that time, "That is a matter which at no time will have any support from the High Command of the Army or any official agency of the High Command of the Army, and which will never be advocated by the High Command of the Army or any of its agencies." That is the substance of the note. Later on he reported to me, in answer to a question of mine, that the mentally insane had been evacuated from the institutions and in order to make the buildings available for military purposes. That is all I know about the matter.

* * * * *

Q. Oh, I see. Now, this entry, just to clarify it a little more, doesn't mention the Security Service. You explained that killing them is necessary, nevertheless, you explain that, by saying that really is what the Security Service said to Wagner?

A. That is how Wagner reported it to me.

Q. Well, why had the Security Service consulted Wagner about this, do you know?

A. I don't know through what channel Wagner received that information. His department military administration dealt with questions of executive power and received its information from all sorts of sources.

Q. And you don't know, as a matter of fact, that insane persons were executed in the operational area?

A. No. I never heard anything about it, and I repeat that when I asked sometime later, perhaps there is an entry to that effect also in my diary—when I asked, I was told that these people had been accommodated outside of the institute in which they had been quartered so far.

Q. You told Wagner that it was no concern of the High Command of the Army what the Security Service did in the operational area, is that right?

A. No. I didn't say that.

Q. I thought that that was what you said a few moments ago. Well, what did you say to Wagner when he reported this to you?

A. I told Wagner that no agency of the army would lend a hand to such actions.

Q. Did you know that insane people in Germany were executed during the war pursuant to a euthanasia decree?

A. I didn't hear anything to that effect during the war, but before the war I heard about it, and I was in personal contact with the clerical circles who opposed and fought this decree.

* * * * *

4. MEASURES AGAINST JEWS

PARTIAL TRANSLATION OF DOCUMENT NOKW-1531
PROSECUTION EXHIBIT 587

EXTRACT OF LETTER FROM COMMANDER OF ARMY REAR AREA 550,
20 AUGUST 1940, INCORPORATING COPY OF LETTER FROM COM-
MANDER IN CHIEF OF 18TH ARMY, 22 JULY 1940, CONTAINING
DIRECTIVES CONCERNING ETHNIC STRUGGLE IN THE EAST

[Handwritten] War Diary

Commander of Army Rear Area 550

[Stamp] Secret

G.J. No. 734/40 secret

Staff Quarters, 20 August 1940
Copy

The Commander in Chief
of the 18th Army
(Ic No. 2489/40 secret)

Army Headquarters, 22 July 1940

* * * * *

2. I also stress the necessity of ensuring that every soldier of the army, particularly every officer, refrains from criticizing the ethnic struggle being carried out in the Government General, for instance the treatment of the Polish minorities, of the Jews, and of church matters. The final ethnic solution of the ethnic struggle, which has been raging on the eastern border for centuries, calls for unique harsh measures.

Certain units of the Party and the State have been charged with the carrying out of this ethnic struggle in the East.

The soldiers must, therefore, keep aloof from these concerns of other units. This implies that they must not interfere with those concerns by criticism either.

It is particularly urgent to initiate immediately the instruction concerning these problems to those soldiers who have been recently transferred from the West to the East; otherwise, they might become acquainted with rumors and false information concerning the meaning and the purpose of that struggle.

Signed: VON KUECHLER
Certified true copy:

Signed signature
Captain, GSC

25 July 1940

Oberquartiermeister

I request the superior officers to instruct the officers and officials of their departments immediately upon their arrival in the East concerning the contents of the order of the commander in chief.

Signed: SCHLIEFER
Certified:

Signed signature
Major

Certified true copy:
[Illegible signature]
Captain

PARTIAL TRANSLATION OF DOCUMENT NOKW-2523
PROSECUTION EXHIBIT 853

COPY OF LETTER, 22 JULY 1941, FROM 11TH ARMY, SIGNED IN DRAFT
BY DEFENDANT WOehler, CONCERNING PHOTOGRAPHS
AND REPORTS OF EXECUTIONS

Copy

11th Army Command

Sec. Ic/Counterintelligence Office

Army Headquarters, 22 July 1941

[Handwritten] 74

In view of a certain special case it seems advisable to call express attention to the following:

In view of the concept of the value of human life prevailing in eastern Europe, German soldiers might become witnesses of incidents (mass executions, killings of civilian prisoners, Jews and others) which at the moment they are unable to prevent, which, however, are offensive to the innermost German sense of honor.

It goes without saying for any normal human being, that no photographs will be made of such abominable excesses, and no report of them will be given in letters home. The production and the distribution of such photographs and reports on such incidents are looked upon as undermining the decency and discipline in the armed forces and will be severely punished. All existing photographs and reports on such excesses are to be confiscated together with the negatives and are to be sent to the Ic/counter-intelligence officer of the army giving the name of the producer or distributor.

It is beneath the dignity of a German soldier to watch such incidents out of curiosity.

FOR THE ARMY COMMAND.

The Chief of the General Staff

Signed in draft: WOehler

22d Division

Sec. Ic.

Division Command Post, 27 July 1941

The above copy is being sent for your information and consideration.

FOR THE DIVISION COMMAND.

First General Staff Officer

[Illegible signature]

Distribution B and subordinate units

TRANSLATION OF DOCUMENT NOKW-3292
PROSECUTION EXHIBIT 1556*

COVERING LETTER FROM 18TH ARMY, 28 SEPTEMBER 1941, TRANS-
MITTING KEITEL ORDER, 12 SEPTEMBER 1941, CONCERNING
JEWS IN THE OCCUPIED TERRITORIES

[Handwritten] Enclosure 5
XXVI Army Corps, Ic No. 862/41 Secret
Qu. No. 717/41 Secret

[Stamp] Secret

18th Army Command
Ic/Counter Intelligence Officer
No. 1229/41 Secret

Army Headquarters, 28 September 1941
Secret

The enclosed instructions from the OKW are hereby forwarded
for your information and observation.

FOR THE ARMY COMMAND

The Chief of Staff
BY ORDER:
[Signed] Richter

Distribution:
Down to the regiments,
independent battalions,
and Supply Troops
2 enclosures

[Handwritten] Announced at roll call
[Illegible initial]

[Handwritten]
Only Enclosure 1
Enclosure 2 to be shown to the two
chaplains [kriegspfarrer] and to be
acknowledged in writing
[Illegible initial]

Copy

Fuehrer Headquarters, 12 September 1941

Armed Forces High Command
Armed Forces Operations Staff/Dept. National Defense (IV/Qu.)
No. 02041/41 Secret

* This document was introduced during the cross-examination of defendant von Kuechler.
See von Kuechler's testimony below in this section.

Subject: Jews in the Occupied Eastern Territories

Individual occurrences give cause to refer to the directives issued for the behavior of the troops in Russia (OKW Armed Forces Operations Staff/Dept. National Defense (IV/Qu.) No. 44560/41, Top Secret, Matter for Chiefs, 19 May 1941).¹

The struggle against bolshevism demands ruthless and energetic measures, above all also against the Jews, who are the main bearers of bolshevism.

Therefore, there will be no collaboration between the armed forces and the Jewish population, whose attitude is openly or secretly anti-German, and no employment of individual Jews to render preferential auxiliary services for the armed forces. Papers which confirm to the Jews that they are employed for armed forces purposes, will not be issued by military headquarters under any circumstances.

Excepted from this is solely the employment of Jews in specially set up labor columns which are only to be assigned under German supervision.

It is requested to disseminate this order to the troops.

The Chief of the OKW

Signed: KEITEL

**TRANSLATION OF DOCUMENT NOKW-3411
PROSECUTION REBUTTAL EXHIBIT 14²**

**LETTER OF TRANSMITTAL AND, "REICHENAU ORDER",³ OF 10
OCTOBER 1941, DISTRIBUTED BY XXVIII ARMY CORPS OF THE
18TH ARMY, COMMANDED BY DEFENDANT VON KUECHLER**

[Handwritten] Activity Report IV, Appendix 17

Ic

[Stamp] Secret

Corps Hq. XXVIII Army Corps

Section Ic No. 706/41 Secret

Corps Command Post, Lissino, 6 November 1941

Corps Hq. XXVIII Army Corps

Section Ia No. 1552/41 Secret

As enclosure an order by an army command is forwarded; this order has been approved by the Fuehrer and deals with the con-

¹ This directive (a part of Document NOGW-3485, Prosecution Rebuttal Exhibit 9) is reproduced in section VI D 3 b.

² Photographic reproduction of this document appears in Section VIII, Case 12, vol. XI.

³ This order, originally composed and issued by Field Marshal von Reichenau, Commander in Chief of the 6th Army, was disseminated widely within the German military forces in the East. The prosecution introduced this copy into evidence as a rebuttal document in connection with the testimony of the defendant von Kuechler that the "Reichenau Order" was not distributed within the 18th Army. (See von Kuechler's testimony below in this section.)

duct of the troops in the Eastern Territories. In the corps area, too, the conditions in general are such that the soldiers must be educated to show more harshness.

The following factors are reemphasized:

1. Every piece of bread given to the civilian population, will be missed at home.

2. Every civilian, even woman or child, trying to cross our encirclement around Leningrad, is to be fired on. The less mouths to feed at Leningrad, the longer will be its resistance there, and each refugee is inclined toward espionage and the partisans; all these things cost the lives of German soldiers.

3. German trucks and vehicles are not here to serve as transportation for the Russian population.

As Deputy
[Signed] KRATZERT
Major General

Distribution:
Down to battalions.

Copy of copy
Army Command [AOK] Army Hq., 10 October 1941
Secret

Subject: Conduct of the troops in the Eastern Territories

In many places there still exist vague ideas regarding the conduct of the troops towards the Bolshevist system.

The most important objective of the war against the Jewish-Bolshevist system is the complete destruction of its means of power and the elimination of the Asiatic influence within the sphere of European civilization.

In this connection, tasks arise for the troops, which exceed the traditional one-sided routine of soldiering. The soldier in the Eastern Territories is not only a fighter according to the rules of the art of war, but also the bearer of a ruthless national ideology and the avenger of all the bestialities which have been inflicted on the German and racially related nations.

This is the reason why the soldier must have full understanding of the necessity of a severe but just retribution upon the Jewish subhuman elements. Its second purpose is to nip in the bud revolts in the rear of the armed forces, which, as experience shows, are always fomented by Jews. The struggle against the enemy behind the front is still not being taken seriously enough. Malicious,

cruel *partisans*, and degenerate females are still being made prisoners of war; and snipers and vagrants dressed partly in uniforms or in civilian clothes, are being treated like decent soldiers and turned over to PW camps. Indeed, the captured Russian officers report sneeringly that the *Soviet agents* roam the streets unmolested and frequently eat meals at German field kitchens. Such conduct on the part of the troops can be explained only as complete thoughtlessness. In this case, however, the time has come for the commanders to clarify the meaning of the present struggle.

The *feeding* at army kitchens of the native population *and prisoners of war* who are not in the service of the armed forces, is an equally misunderstood humanitarian act as is the giving away of cigarettes and bread. The items given up at home under the greatest sacrifices, and transported to the front by the command authorities under the greatest of difficulties, must not be given away by the soldier to the enemy, even if they come from booty stores. They are an essential part of our supplies.

The Soviets frequently set fire to buildings while retreating. The troops should be interested in fire fighting only as far as necessary troop billets must be preserved. In all other cases, the disappearance of the symbols of the former Bolshevik regime, even if represented by buildings, belongs into the framework of the war of annihilation. In this respect, neither historical nor artistic considerations play a part in the eastern region. The command authorities will give the necessary orders for the preservation of the raw materials and production plants essential for war economy. The total *disarming of the population* in the rear of the fighting troops is especially urgent in view of the long and vulnerable supply lines. Captured arms and ammunition are to be salvaged and guarded wherever possible. If the combat situation does not permit this, arms and ammunition are to be rendered useless. If individual *partisans* are found to be using firearms in the rear of the army, this has to be suppressed by drastic measures. These measures must also be extended to those persons of male population who were in a position to prevent or report sabotage operations. The indifference of numerous allegedly anti-Soviet elements, which derives from a "wait and see" attitude, must give way to a clear decision to cooperate actively against bolshevism. Otherwise no one can complain about being considered and treated as an adherent of the Soviet system. The fear of the German countermeasures must be stronger than the threat from the wandering Bolshevik remnants.

Apart from all political considerations of the future, the soldier must fulfill two demands.

1. *The total annihilation of the false bolshevist doctrine of the Soviet state and its armed forces.*

2. *The pitiless extermination of foreign treachery and cruelty, and by the same token, the protection of the lives of the members of the German Armed Forces in Russia.*

Only in this manner shall we fulfill our historical mission to free the German people from the Asiatic-Jewish danger once and for all.

Signed signature

Certified true copy:

[Signed] VON KATZELL

1st Lt.

PARTIAL TRANSLATION OF DOCUMENT NOKW-663
PROSECUTION EXHIBIT 618

LETTER OF TRANSMITTAL FROM ARMY HIGH COMMAND (OKH) TO
MAJOR SUBORDINATE UNITS IN THE EAST, 28 OCTOBER 1941,
REQUESTING IMPLEMENTATION OF "REICHENAU ORDER"

Copy

High Command of the Army
General Staff of the Army/Generalquartiermeister
Dept. War Administration (Qu.4/B)
II 7498/41 Secret

Headquarters, High Command of the Army, 28 October 1941

[Stamp] Secret

Subject: Conduct of troops in Eastern Territories

By order of the Commander in Chief of the Army [von Brauchitsch], the copy of an order concerning the conduct of the troops in the Eastern Territories by the Commander in Chief of the Sixth Army, designated as excellent by the Fuehrer, is herewith transmitted with the request to issue—if not already done—orders to the same effect.*

BY ORDER:

Signature

Distribution:

To all: Army Groups
Armies
Panzer Groups
Commanders of Army Group Rear Area } in the East

* The order transmitted was signed "Commander in Chief, von Reichenau, Field Marshal". A translation of the text of this order is contained in Document NOKW-3411, Prosecution Rebuttal Exhibit 14, immediately preceding.

Certified True Copy:
[Illegible signature]
Captain

PARTIAL TRANSLATION OF DOCUMENT NOKW-650
PROSECUTION EXHIBIT 738

REPORT FROM XXX ARMY CORPS TO 11TH ARMY, 2 AUGUST 1941,
CONCERNING OPERATIONS AGAINST JEWS IN KODYMA

Corps Hq XXX Army Corps
Section Ic

Corps Hq., 2 August 1941
[Stamp] 11th Army Section Ic
Counterintelligence Officer
6 August 1941

To 11th Army Section Ic/Counterintelligence Officer

Subject: Operations against Jews and Komsomol in Kodyma on
1 August 1941.

I. A Ukrainian woman was brought to Corps Headquarters Section Ic by Captain Kraemer, interpreter with the 198th Division on 1 August 1941, about noon. The woman stated as follows:

She listened in on a discussion of Jews and Bolsheviks on 31 July 1941, about 1900 hours. During this discussion a decision was reached to sabotage the German request to start work again in the fields, to spy on the German military offices in Kodyma and, after being joined by persons of the same mind from other villages, to attack the German offices and troop units of the German Army stationed in Kodyma.

For interrogation of the Ukrainian woman see Enclosure 1.

II. On the basis of this report the SS Einsatzkommando 10a, stationed in Olshanka was informed immediately. The Einsatzkommando was requested to dispatch a detachment to Kodyma immediately in order to prevent the execution of the intentions of the Jews and Bolsheviks on the same afternoon by an extensive operation in the Jewish quarter. The operation was executed under the command of SS Hauptsturmfuehrer Prast, and 300 members of various troop units were also employed to block off the part of the town involved. The operation started at 1515 hours and was finished at approximately 1900 hours.

III. *Results*—Altogether 400 male persons were arrested, mostly Jews. They were subjected to an interrogation in the market place of Kodyma. It was remarkable that many of these Jews were from Baltic, Soroki, Yampol, and other localities formerly

occupied by German troops, in particular former leading Communists. Ninety-eight of these 400 persons were proved active members of the Communist Party (functionaries and the like) and/or urgently suspect of participation in the intended plot.

The rest of the persons consisted to a great part of asocial elements of the Jewish race. The first mentioned 98 persons were shot to death outside the village pursuant to the directive of SS Hauptsturmfuehrer Prast, after they were briefly screened and interrogated once more. Of those remaining 170 were detained as hostages of which 120 to 130 (old men and children) were again released in the morning of 2 August 1941, while the remaining 40 persons were detained as hostages. On the same evening, by means of loud-speaker vans, and the next morning by means of poster and the distribution of the enclosed proclamation, the population was informed of the reason for the measures taken on 1 August 1941, and given instructions for their future conduct.

IV. The night from 1-2 August 1941, in Kodyma was perfectly quiet. There were no signs whatever that any actions by Jews and Communists against the armed forces would take place.

FOR THE CORPS HEADQUARTERS

The Chief of the General Staff

[Illegible signature]

Colonel

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NOKW-586
PROSECUTION EXHIBIT 741

PROCLAMATION BY DEFENDANT VON SALMUTH* TO THE INHABITANTS OF KODYMA, ISSUED ON 1 AUGUST 1941, AND EXTRACT OF REPORT FROM SS SONDERKOMMANDO 10a TO EINSATZGRUPPE D, 3 AUGUST 1941, CONCERNING KODYMA AFFAIR

To the population of Kodyma

1. A number of persons were shot today because it had become known to the German Command that preparations were being made for secret attacks against the troops of the German Armed Forces in the town.

2. In addition, a further number of persons were taken hostage and brought to the prison camp. They will not be harmed if the

* See testimony of defendant von Salmuth reproduced below in this section, for more complete information concerning this incident.

population of the town shows a quiet and loyal attitude towards the troop detachments in the town and towards German soldiers.

3. However, should any troop detachments or individual German members of the armed forces or any installations of the German Armed Forces in the town or in the vicinity of Kodyma be attacked, the German Command will be obliged to order more executions. Only a quiet loyal attitude of the entire population guarantees the lives of these hostages.

4. It is hereby ordered that until further notice the population of Kodyma has to provide for the provisioning of these hostages. The major is arranging details with the local commander and the commander of the prison camp.

5. Starting immediately the civilian population is forbidden to leave their homes between 2030 and 0400 hours. Anyone found in the streets during this time will be shot.

Kodyma, 1 August 1941

The German Command

Local Headquarters, 3 August 1941

Sonderkommando 10a
To Einsatzgruppe D

* * * * *

2. On account of riots and preparations for attacks on the German Armed Forces, a raid of the Jewish quarter of Kodyma was organized by the Teilkommando, for which the XXX Army Corps put *400 soldiers* at the disposal of the Teilkommando. For this the use of arms was necessary. In agreement with the commanding general, 99 of the persons arrested were shot, among them 97 Jews, approximately 175 were taken as hostages, the rest released. Executions were carried out by 24 men of the armed forces and 12 of the Security Police. Details are given in the special report, enclosed herewith.

* * * * *

(Signed) SEETZEN
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NOKW-579
PROSECUTION EXHIBIT 740

REPORT BY SONDERKOMMANDO 10a, 2 AUGUST 1941, CONCERNING
OPERATION AGAINST JEWS IN KODYMA

Local Headquarters, 2 August 1941

Sonderkommando 10a
(Petchanka)

Report

Subject: Meetings of Jews in Kodyma.

On the strength of information given by a Ukrainian woman, according to which a secret meeting of about 50 Jewish persons was held in Kodyma at which the possibility of a surprise attack on individual German units quartered in Kodyma was discussed, the Sonderkommando 10a was notified through the XXX Army Corps. From the Sonderkommando 10a a squad consisting of 2 NCO's and 14 men was detailed to investigate the matter. The information given by the Ukrainian woman was largely confirmed by the statements of several Ukrainian inhabitants of the town. In addition, several reports had been received from German soldiers stating that Jews staying in Kodyma, the majority of whom were Jews who had fled there from the districts Belzy, Soroki, etc., had shown a very hostile attitude towards German military personnel. Among other things, the Jewish manager of a soda water factory had forbidden drinks to be served to the troops, and under threat he had prevented soldiers from entering. Other Jews had gathered in groups of 10-12 and had also adopted a very hostile attitude.

After the Ic of the XXX Army Corps had detailed about 400 men for the purpose of carrying out an operation, it was possible wholly to surround and comb out the inner circle of the town—the inhabitants of which were almost 100 percent Jewish. A decree was then issued that all males over 15 years of age were to be arrested. Any attempt at flight or resistance would be ruthlessly countered by force of arms.

Since the Jews even then persisted in their hostile behavior and some of them attempted to escape or barricaded themselves in their houses, firearms had repeatedly to be used. One Jew was shot and another wounded. In addition, warning shots had to be fired repeatedly at the rest of the population as they tried to free those arrested or to intervene in some other way.

After the operation was over, about 400 male Jews were arrested. The majority of them had fled from districts occupied by the advance troops and had taken refuge in Kodyma.

By interrogation of and confrontation with Ukrainian inhabitants of the town, 98 persons were identified who had taken part in the meetings or who had behaved in an insubordinate manner to the German military, or who had belonged to the Jewish intelligentsia. About 100 persons who were Ukrainians or Russians or were very old were released after appropriate fines had been

imposed. With regard to the remainder, about 175 in number who were all Jews, it could not be proved that they were implicated. They were therefore handed over to the German military prison camp as hostages, while the aforementioned 98 persons were liquidated after their particulars had been taken.

During the interrogation it was ascertained that even after the arrival of the staff of the XXX Army Corps, a Jew had given refuge to a Russian officer, who had only left the town a few days before, leaving his uniform behind. The Jew who had given him refuge was also arrested.

The armed forces took part in the execution with a detachment of 24 men, while the execution detachment of Security Police taking part consisted of 12 men. An attempt at flight which took place during the execution was prevented by the use of firearms.

While preparations were being made for the execution and also during the actual execution, order had to be restored in the town by force of arms. At 2030 hours order was finally restored after the population also had been notified of the proclamation issued by the local commander stating that no one was to leave his house after 2030 hours on pain of death.

The detachment of the Security Police remained on the spot during the following night and yesterday. Up to the present no incidents have been reported.

During the following night the population was informed of the measures adopted by the German authorities by means of loud-speaker vans and posters (see enclosure) in German, Russian, and Ukrainian.

SS Hauptsturmfuehrer

PARTIAL TRANSLATION OF DOCUMENT NOKW-2963
PROSECUTION EXHIBIT 1303

DIRECTIVE FROM COMMANDING GENERAL OF THE XXX CORPS,
DEFENDANT VON SALMUTH, 2 AUGUST 1941, CONCERNING
PARTICIPATION OF SOLDIERS IN OPERATIONS AGAINST
JEWS AND COMMUNISTS

Headquarters XXX Army Corps
Section Ic No. 628/41 secret

Corps Headquarters, 2 August 1941
Secret

Counterintelligence Directive No. 4
[Handwritten] 22d Division Ic 552/41, secret 20 August 1941
Distribution A, 20 August 1941
[Illegible initial]

* * * * *

2. *Participation of soldiers in operations against Jews and Communists*—The fanatical intent of the members of the Communist Party and of the Jews to delay the German Armed Forces at all costs must be broken under all circumstances. In the interest of the security of the army rear area it is therefore necessary to take severe measures. Sonderkommandos have been charged with this mission. At one place, however, members of the armed forces participated in such an operation in an unpleasant manner.

For the future I order—Only those soldiers will participate in such operations who are expressly ordered to do so. I also forbid all members of the unit subordinate to me to participate as spectators. If members of the units are ordered to participate in such operations, they must be under the command of officers. These officers are responsible for ensuring that no unpleasant excesses are committed by the troops.

Distribution:

Down to companies.

THE COMMANDING GENERAL

[Signed] SALMUTH

PARTIAL TRANSLATION OF DOCUMENT NO-3146
PROSECUTION EXHIBIT 943

EXTRACTS FROM OPERATIONAL SITUATION REPORT U.S.S.R. NO. 94,
25 SEPTEMBER 1941, CONCERNING ACTIVITIES OF THE
EINSATZGRUPPEN

The Chief of the Security Police and Security Service (SD)
IVA 1/Journal No. 1/B41, Top Secret

Berlin, 25 September 1941
48 copies—36th copy

Operational Situation Report U.S.S.R., No. 94

Top Secret

I. *Political survey*

* * * * *

II. *Reports from the Einsatzgruppen and Einsatzkommandos*

Einsatzgruppe A.

Location Kikerino

I. *Partisans*

* * * * *

Within the area of the civil administration, Einsatzkommandos 2 and 3 found at various places an intensified propaganda activity

of the Jewish population for the Bolshevik cause. Wherever such propaganda activity appears the most severe measures are being taken and the places entirely purged of Jews as far as possible. This Jewish propaganda activity having been particularly intensive in Lithuania, the number of persons liquidated within the area of Einsatzkommando 3 has increased to approximately 75,000.

For specific tasks special Kommandos had repeatedly to be sent into the rural districts and were assigned to certain places for several days. Thus, for example, one Kommando had to be sent to Pljussa, since reports about large-scale looting had been received from there. Forty-seven persons were arrested and questioned. Seven persons were shot for looting, two more were publicly escorted through the streets of the place, while the inhabitants were told that these persons had been looting food to the detriment of the population. Another Sonderkommando had to be sent to Mugotova where 87 insane persons had armed themselves and roamed the countryside looting. It could be ascertained that these insane had been incited by 11 Communists, part of whom presumably belonged to a partisan group. The 11 agitators, among them 6 Jews, and the insane were liquidated.

In the vicinity of the headquarters of group staff Pesje, Ikerine and Neshne, the whole male population was regularly screened immediately on arrival of the units, resulting repeatedly in the arrest of partisans, Jewish and Communist agitators, looters, etc. Since the locations of the Einsatzgruppe are always near the headquarters of the 4th Armored Group, appreciation for this systematic and successful screening of the neighborhood area was repeatedly voiced by the 4th Armored Group.

II. *The Jewish problem in the Eastland Territory* [*Gebiet Ostland*]

The first actions against the Jews in the Reich Commissariat Eastland, also in the field of the administrative police, were undertaken by the Security Police. After the civil administration had taken over, the Einsatzkommandos transferred all anti-Jewish actions in the administrative police field whether completed or only initiated, to the civil administration agencies. The establishment of ghettos had already been prepared everywhere and is being continued by the civil administration. Only at Wilno [Vylna] which was taken over by Einsatzgruppe A at a later date, preparations for the confinement in a ghetto of the 60,000 Jews living there had not yet been made. Einsatzkommando 3 has now suggested the establishment of a ghetto and will at the

same time initiate the necessary pacification actions against the political activity of the Jews.

At Riga, the so-called Moscow quarter of the town had been provided as a ghetto, even before the civil administration took over and a council of Jewish elders had been nominated. The removal of the Jews into the ghetto is being continued.

The Jews in the cities are being employed by all German agencies as unpaid manpower. Difficulties with such employing agencies are everyday occurrences, if and when the Security Police must take steps against working Jews. Economic agencies have repeatedly even filed applications for exempting Jews from the obligation to wear the Star of David and for authorizing them to patronize public inns. This concerns mostly Jews who are designated as key personnel for certain economic enterprises. Such efforts are of course suppressed by the agencies of the Security Police.

In the old Soviet Russian territory, Jews were found only sporadically, even in the cities. Most of the Jews who had been living there had fled. At present, and since old Soviet Russian territories have been occupied, the Wehrmacht itself usually issues orders for the marking of the Jews. Thus, the commander in chief of the 18th Army has ordered, for example, that Jews must be distinguished by white brassards to be worn on both arms and showing the Star of David.

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IV. *Situation in occupied area of Old Soviet Russia*

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No reports from Einsatzgruppe B.

Einsatzgruppe C.

Location Smolensk.

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II. *Measures taken and observations made by the Security Police*

During the preparation period for the military offensive now under way, the operations of the Einsatzkommandos could be continued intensively and on a broad basis.

In the southern region of the operational area, because of the sparseness of the Jewish population, the main effort had to be directed toward individual investigations and search actions, while particularly in the region of Zhitomir and Berdichev there was an opportunity for actions on a larger scale.

This explains also the difference in the number of executions reported by the individual Kommandos.

Sonderkommando 4a has now surpassed the number of 15,000 executions. Einsatzkommando 5, for the period between 31 August and 6 September 1941, reports the liquidation of 90 political officials, 72 saboteurs and looters, and 161 Jews. Sonderkommando 4b, in the period between 6-12 September 1941, shot 13 political officials and 290 Jews, primarily of the intelligentsia, whereas Einsatzkommando 6, in the period between 1-13 September 1941, executed 60 persons. Group staff was able to liquidate during the last days four political officials and informers of the NKVD, six asocial elements (gypsies) and 55 Jews. The units of the Higher SS and Police Leader during the month of August shot a total of 44,125 persons, mostly Jews.

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As already mentioned, the procedure against the Jews is necessarily different in the individual sectors, according to the density of their settlement. Especially in the northern sector of Einsatzgruppe C, a great many Jewish refugees have returned to the villages and, present now a heavy burden in regard to the food situation. The population neither houses nor feeds them. They live partly in caverns, partly in overcrowded old huts. The danger of epidemics has thus increased considerably, so that for that reason alone a thorough cleanup of the respective places became necessary.

The insolence of the Jews has not yet diminished even now. Apart from the fact that, on the occasion of raids, they like to pass themselves off for Russians, Ukrainians, even ethnic Germans, they often are in the possession of passports which, though showing their names correctly, give a false nationality. Concealment of their Jewish descent has been made easier for them by the Russianization of the names which has taken place to an ever-increasing degree during the last years.

At Kirovograd it became known that Jews tried to obtain all the register's office identity papers with a false nationality. Several Jews, on the basis of forged papers, even succeeded in obtaining various posts with the administration where they performed such acts of "re-baptism" in a system of patronage as practiced already previously. The Ukrainian population, for fear of revenge by the Jews, often does not dare to report this situation to the authorities. The most severe measures are taken here in dealing with such cases.

Difficulties have arisen insofar as Jews are often the only skilled workers in certain trades. Thus, the only harness-makers and the only good tailors at Novo-Ukrainia are Jews. At other places also only Jews can be employed for carpentry and lock-

smith work. The cause of this shortage of skilled workers is to a large extent to be found in the unlimited compulsory evacuation of skilled Ukrainians by the Soviets. In order not to endanger reconstruction and the repair work also for the benefit of transient troop units, it has become necessary to exclude provisionally especially the older Jewish skilled workers from the executions.

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No reports from *Einsatzgruppe D*.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON KUECHLER*
DIRECT EXAMINATION

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DR. BEHLING (counsel for defendant von Kuechler) : Now, Field Marshal, the prosecution has raised two questions here, reports or war diary extracts where it is reported that Jews were shot. I ask you now, were these Jews shot because they were Jews or, if not, how do you explain these reports?

DEFENDANT VON KUECHLER: No. These Jews were certainly not shot because they were Jews or because of their religion. They were shot because they were connected in some way with the partisans, and because they were convicted of having helped the partisans or having participated in partisan warfare.

Q. Why then was there a separate listing in your reports with respect to the partisans, partisan suspects, and partisan helpers, Jews, persons without identification, etc.? Parachutists were also listed separately.

A. Actually they are all the same; there is just a separate listing due to the individual who wrote the war diary, and I really cannot explain why it happened.

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CROSS-EXAMINATION

MR. NIEDERMANN: You stated you received the Reichenau Order while you were in the East.

DEFENDANT VON KUECHLER: Yes.

* Complete testimony is recorded in mimeographed transcript, 27-29 April 1948, pp. 2787-3002.

Q. It is Document NOKW-663, Prosecution Exhibit 618.* Did you distribute that order to your subordinates?

A. When did the Reichenau Order arrive? Oh, yes. I was with the 18th Army then. I must have been with the 18th Army. No. I did not pass on the order.

Q. Do you recall the order well enough to describe it or to discuss it, or shall I show it to you?

A. Well, I cannot remember it but—

Q. Can you give me your opinion of that order?

A. Well, yes. I know the substance of the order and I have read it again now. I reject the order and think that it is not consistent with the conduct of war.

Q. Did you issue any orders similar to that in your sphere of command?

A. No. I also thought about whether I gave an order on the basis of the Reichenau Order, and I don't think I did, no.

Q. Did you order any discriminatory measures against Jews?

A. No.

Q. You were shown a document this morning or yesterday, NO-3146, Exhibit 943. You will recall perhaps that that was a report by the Chief of the Security Police and the SD in which—

A. The commander in chief agrees to the Jewish star.

Q. That is right. You said, didn't you, that you had no knowledge of the fact that you are mentioned there as having ordered the marking by arm band of Jews?

A. No. I can't remember that. No. I can't remember that Stahlecker came to visit me about that either. I can't remember.

Q. Did you or did you not issue such an order? It must be easy for you to answer that question. You categorically deny that you issued it?

A. Well, I am sitting here under oath, and I really can't—I can only state according to my best knowledge and belief. If I say no, then you will just produce a document with an order showing the opposite!

Q. Would you have issued such an order?

A. No.

Q. If you had issued such an order you would have—

* Document reproduced in part, above, in this section. A complete translation of the text of the Reichenau Order also appears in NOKW-3411, Prosecution Rebuttal Exhibit 14, in this section.

A. Because it absolutely contradicted my opinion. I really cannot imagine that I issued an order of that kind.

Q. You, of course, realize that if you had issued such an order for marking of Jews in those times and in that place you would have in reality been marking them for execution, would you not?

A. No. Why? I don't know. I didn't know anything at all about this secret order of Hitler's, and I didn't know anything at all about the extermination of the Jews or gypsies. I didn't know anything about it at all.

Q. Certainly you now realize that if you had done that, that is what would have resulted?

A. Yes. When I look back on it now, then I must answer in the affirmative.

Q. Let me show you another Document, NOKW-1686, Prosecution Exhibit 612.* This is an order—do you have it in front of you?

A. Yes. I have got it.

Q. This is an order by the commanding general of the rear area of the Army Group North on Jews in the newly Occupied Eastern Territories.

A. Yes.

Q. What do you think of that order?

A. This is an order from the OKW to the commander of the rear area of Army Group North which probably contains the intentions of Hitler in the struggle against Bolshevism.

Q. What do you think of the order; what is your opinion? Would you have issued such an order?

A. No. I would never have issued such an order.

Q. But, as a matter of fact, Witness, you did issue such an order, did you not?

A. Did I? No. When?

Q. Then I must show it to you, NOKW-3292, Prosecution Exhibit 1556. That is the identical order. It is the same order, is it not?

A. Yes.

Q. And it is distributed by your 18th Army, is it not?

A. Yes.

* This exhibit is the same in content as Document NOKW-3292, Prosecution Exhibit 1556, reproduced above in this section. Note following testimony of the defendant von Kuechler affirming fact that the documents are identical.

Q. And signed by the [18th] Army General Staff?

A. But it is not signed by me nor by my chief of staff. It went through the Ic channel, even through the Ic counterintelligence channel, and it was distributed without my approval and without my knowledge.

Q. Did the chief of staff have authority to issue such an order without your approval?

A. The chief of staff didn't issue it. The Ic, Richter, received this order from the OKW, and then he simply passed it on.

Q. Now you say the Ic issued the order and passed it on without your knowledge. Will you read the signature?

A. Yes. It is signed Richter.

Q. And who is his superior officer?

A. Richter's direct superior is the chief of staff. In disciplinary matters.

Q. You have previously testified that all the Jews shown as killed in numerous reports, that we have presented here in evidence, were all partisans, have you not?

A. I can't think otherwise than that. Jews were not shot because they were Jews but because they had cooperated somehow with the partisans. I can't think anything else.

Q. Don't you really think that the main reason for the killing of these Jews is that expressed here in your order of the 18th Army, or at least the order of the 18th Army, the battle against bolshevism?

A. That certainly isn't an order of the 18th Army, but an order from the High Command of the Army or the OKW. It is not an order from the 18th Army.

* * * * *

Q. You have also testified concerning the killing of Jews, that they were listed separately for some reason incomprehensible to you, have you not?

A. Yes.

Q. Do you understand why they were even asked if they were Jewish in order to be listed?

A. No. I can't think of any reason.

Q. Isn't perhaps this order before you one of the reasons?

A. I would like to read it through again. Well, it is difficult to say. I really can't say today. I don't know.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT
HANS VON SALMUTH¹

DIRECT EXAMINATION

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DR. GOLLNICK (counsel for defendant von Salmuth) : I will now come to the count of the indictment, ill-treatment and murder of the civilian population, and put to you Document NOKW-650, Exhibit 738,² which deals with the events in Kodyma. Can you first of all, in order to facilitate the comprehension of the Tribunal, describe the military situation in Kodyma as it existed at the time?

DEFENDANT VON SALMUTH: After the crossing of the Dnestr, two of my German divisions had driven towards the enemy very fast. They had advanced very rapidly. They were far in advance when they were attacked by superior enemy forces which had been hurled at them. The combat post of the corps at that time had been moved very far to the front, very close to those two divisions, whereas two other divisions were at the rear to the right and rather far away. There were most unpleasant crises. In Kodyma itself one of these crises happened which we might have fallen victims to, if by chance I myself—as a matter of fact, this is not a particular accomplishment of mine, I don't want to put myself in a good light in this connection—[If I] had not observed a Russian attack close to Kodyma itself. I succeeded in halting this attack, yet the position remained extremely critical. On the first of August, on the day when this event occurred, I returned from a Rumanian division. That was at noon, and I wanted to inform the chief of staff, but he had not yet returned from a flight to another division. Thus, I left immediately to see another division, and it was only in the evening, at about 1900 hours, that I returned.

Q. Now, what had happened in Kodyma in your absence, and what did you hear about it upon your return?

A. The chief of staff, who had meanwhile returned, reported to me as follows—A German officer had brought a Ukrainian woman along who had testified as follows. On the evening before she had listened in to a meeting of a number of persons, and in this assembly the following had been agreed on; (a) a raid on the German staff headquarters; (b) sabotage of the harvest, burning of the harvest stocks in Kodyma, and the killing of the Ukrainian population who sympathized with the German troops.

¹ Complete testimony is recorded in mimeographed transcript, 12-14 May 1948, pp. 3899-4177.

² Document reproduced above in this section.

Q. Was that a particularly dangerous position, in view of the military position as described by you?

A. Yes. Because in the night before, owing to an enemy breakthrough about 2 kilometers from Kodyma we had lost two batteries.

Q. Now, what happened afterwards?

A. It was reported to me that in my absence and the absence of the chief of staff, a Security Service detachment, which happened to be near, had been called upon to investigate this incident. This Security Service detachment had arrived, and after a short examination they had asked for a military detachment in order to seal off a certain quarter of the city. The corps headquarters, from the mixture of units which were stationed in Kodyma—there were no fighting troops stationed in Kodyma—had got about 300 people together in order to use them for cordoning-off purposes. This Security Service detachment had searched certain roads, certain quarters, and had arrested a number of people in the course of this investigation. Now, in the period until the afternoon, the following had happened. The chief of staff, who had by then returned, had been requested by the Security Service detachment to supply an execution squad of German soldiers in order to execute those 400 persons who had been arrested. The chief of staff had refused. Soon after I arrived on the scene and everything I have described was reported to me. I took the following steps: (a) Communication to the leader of the Security Service detachment, "Shooting of those people out of the question. I demand a proper investigation in order that due process of law will take place and no arbitrary actions occur." For that purpose I made the Judge Advocate available. This Judge Advocate received the order from the corps at the place he was in—he was further to the rear—to come immediately in order to look after the matter. On the same night I learned that the Security Service detachment had not waited for the arrival of the Judge Advocate but that approximately 100 people were shot by them; thereupon, the Judge Advocate reported to me that, unfortunately, he had been too late; that he had ascertained that there altogether 400 persons had been arrested and 100 shot, so that 300 remained; I no longer know how many, but I think 100 or 175 were released; the remainder, approximately 200—no, I must correct myself—there were less than 200 taken from the Security Service and sent to the prisoner of war collecting center.

Q. And what happened to these people that were sent to the prisoner of war collecting center?

A. On the next day, of these people there were less than 200, all of them were released except 30 or 40, and these remaining 30 or 40 were released a few days later when the corps advanced. On the same night when this had happened I issued an order, a proclamation in the town of Kodyma in which it was announced that the German Command had unfortunately been compelled, on account of this intended insurrection, to shoot a number of persons, and that a number of persons had been retained as hostages.

* * * * *

Q. Now how about the participation of the German Armed Forces in the execution, did German soldiers participate?

A. As I stated before, the chief of staff of the XXX Corps had refused a participation of the armed forces or of the XXX Corps in any execution. Unfortunately, however, a few soldiers—not upon the orders of their superior officers, but on their own initiative—voluntarily participated in this execution. I cannot deny that because that is what happened and unfortunately a man from my own corps staff was among them. He was accordingly punished by his superior, the chief of staff, with the strictest arrest possible for disobedience.

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CROSS-EXAMINATION

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MR. NIEDERMAN: I would like now to discuss with you the Kodyma incident. You recall that incident, of course. Kodyma, K-O-D-Y-M-A. Do you recall that incident?

DEFENDANT VON SALMUTH: Very well indeed.

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Q. What was the first information you received concerning this event?

A. As I testified yesterday, the incident was reported to me as it is recorded in the document.

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Q. Who told you? Who reported that to you?

A. I assume it was my chief of staff.

Q. Were you advised at that time that the execution of these 98 Jews had already taken place?

A. No. I don't think so. I learned about it two days later, because subsequent to this conversation, I issued an order that it was completely out of the question.

Q. But didn't your proclamation, issued on 1 August—

A. Yes.

Q. I will find it in just a minute. Didn't your proclamation on 1 August, say a number of persons were shot today?

A. Yes.

Q. Then you must have been informed of the fact on 1 August, must you not?

A. I did not contest that.

Q. Then on 1 August on your return you were already advised that persons had been shot.

A. No. I have told you, that as far as I recall (a) it had been reported to me that this had happened; (b) I heard about the arrest, and also that this Security Service detachment wanted to shoot those 400 Jews. Now, the steps I took were to dispatch somebody immediately to the leader of this Security Service detachment to tell him to stop, and that I would not allow this to happen; then I requested my Judge Advocate to come to the spot immediately so these things could be stopped and proper legal proceedings could be instituted.

Q. I am afraid I am still confused. How could you on 1 August issue a proclamation to the population of Kodyma that a number of persons were shot today if you didn't know that they had been shot?

A. I beg your pardon. I previously stated that I had heard of what had happened though not immediately. I think I made myself quite clear on this point.

Q. Well, then, on 1 August you already knew that persons had been shot in Kodyma?

A. Yes, during the evening I knew.

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Q. Now, when you were informed of this execution that had taken place, were you informed that 300 members of troop units of yours had blocked off the city?

A. Yes. I was informed of this.

Q. Who was in command of those troop units?

A. I can't say today.

Q. Didn't your investigation deal with that phase of the matter?

A. I testified yesterday—I must refer you once again to my testimony—and I stand by this testimony of yesterday, that the local commanding officer, had been ordered to make troops available for the blocking off that took place in connection with this investigation.

Q. Yes, and who ordered the local commander to make those troops available?

A. The corps headquarters.

Q. The corps headquarters? And who in the corps headquarters had issued that order?

A. I don't know and so I can't say.

Q. Didn't you investigate to determine who that was?

A. No.

Q. Were you also advised that the execution squad consisted principally of army troops?

A. No.

Q. You have read the Security Service report in here which stated that the execution squad consisted of 24 soldiers and 12 Security Service members, have you not?

A. I have read it here. I have seen the documents here on the witness stand, but I cannot imagine that I read them at an earlier date.

Q. Did your investigation disclose that 24 members of your troops had participated in the execution?

A. Once again I must refer to my testimony of yesterday when I stated that according to the report by my chief of staff, a number of soldiers of my corps unfortunately had taken part in this execution. I furthermore stated that the Security Service detachment had requested my chief of staff to make soldiers available for this execution. This request to supply people for the execution was brusquely refused by the chief of staff, but—and I stated that yesterday—a few soldiers unfortunately participated in this execution. I also stated that the chief of staff had punished a member of my corps headquarters staff who had taken part in the executions, and that he had imposed a disciplinary punishment.

Q. What do you mean by “disciplinary punishment”?

A. He punished him by arrest.

Q. And what subsequently happened to this member of the execution squad?

A. I stated this man was punished by arrest. In other words, he was locked up.

Q. For how long a period was he locked up?

A. I don't know. I can't tell you. Perhaps for—I think the maximum penalty was 20 days.

Q. And you thought, of course, that that punishment was severe enough for a man who had participated in the execution of 98 Jews?

A. This man could only be punished for disobedience, failure to obey an order, and, according to the regulations, you could not raise any other charges against him.

Q. Why couldn't you punish him for murder?

A. I couldn't punish him, only his superior in disciplinary matters, the chief of staff, could punish him. Now, as for murder, the man wasn't even conscious of committing a murder, because I am convinced that no soldier who participated in this execution realized clearly that he committed a murder, because he had to assume that all this prosecution of the perpetrators had all taken place according to due processes of law, and they had no idea of the circumstances leading to it.

Q. Then you mean, he wasn't punished, because he had participated in this event by order?

A. He was punished because he had disobeyed the order which had been issued to him.

Q. What order are you talking about?

A. The chief of staff had issued the order that nobody was to participate in this execution.

Q. Then the chief of staff knew that these people were to be executed?

A. Mr. Prosecutor, I have told you twice before now that the Security Service detachment requested my chief of staff to make troops available for the execution, and that the chief of staff refused to supply these troops; so he was bound to know that something of this kind was possibly going to happen.

Q. Now, what happened to the 23 other members of the armed forces that participated in this event?

A. I can't tell you. I don't know. There were all men of detachments which happened to be in Kodyma on that particular day, and they left Kodyma after a few hours and went to some other place the next day, and I don't know where they went.

* * * * *

Q. Now, at what time of the day did you receive the first report from your chief of staff concerning this event?

A. I cannot tell you however much I try. It was in the evening when I returned.

Q. Did the chief of staff tell you when he reported that he was present at the execution.

A. Will you please repeat the question.

Q. Was your chief of staff present during the execution?

A. My chief of staff?

Q. Yes.

A. Not in any way.

Q. If he knew that this execution was to take place, why didn't he stop it?

A. He didn't know, nor did I know when this was reported to me, that the Security Service detachment suddenly wanted to carry out the shootings this very night; for that reason I had called upon the judge advocate to come, because I had to assume that according to what I had told the Security Service detachment, everything had come to a stop for the time being.

Q. But you testified that the chief of staff had been requested by the SD for an execution squad?

A. Yes.

Q. He knew there was to be an execution, didn't he? Why didn't he stop it?

A. I had given the order that the execution was not to take place, that no troops were to be made available.

Q. Now, you issued the order then that they were not to make the troops available for the execution?

A. Yes, and also I issued the order that the execution was not to take place at all. These are two different matters.

Q. And on 1 August, you knew that the execution had taken place by your poster. Prior to that time, you must have issued the order then that the execution should not have taken place?

A. Just a minute. I think that was an error of yours.

Q. I would like to show you—you have it in the document book before you—your poster just to settle the difficulties on the dates. The poster is NOKW-586, it is in document book 9-I, if Your Honor please, on page 11. You will see in the first line the statement that a number of persons were shot today, dated 1 August 1941, the German Command; therefore, when you issued this

poster, you already knew on 1 August, that these persons had been shot; therefore, when you issued your order that they should not be shot, it was before they were shot on 1 August, was it not?

A. Did I really express myself in such a manner that I am absolutely misunderstood? Am I really so unclear? Things were like this. I left in the morning. During my absence the following occurred. Perhaps I need not repeat all of it. The report of this Ukrainian woman, so forth and so forth, apprehension of four-hundred Jews. Now, the request put to the chief of staff in the afternoon for the execution squads which he sharply rejected. Now, I returned. The incident is immediately reported to me. I intervene. Communication to the SD Leader, "Stop, do nothing, I will send my Judge Advocate to you who will settle the matter." Then again an interval. Then the same night I learned that the SD leader nevertheless had shot those 98 people. Thereupon this order issued by me, rather it was not an order, but a proclamation to the population of Kodyma.

Q. That is exactly as I understood you, you issued the order that they should not shoot them, but in spite of this, they went ahead and killed them?

A. Yes.

Q. Fine. Now, then, prior to the execution you had returned to Kodyma, had you not?

A. I cannot tell you. I don't know when it actually took place. I don't know at what point of time. I don't know.

Q. It must have been before the execution, because you ordered the Security Service not to execute those people, therefore, it must have been prior to the execution, must it not?

A. But I don't know what had happened. If the chief of staff reported to me that this and this has happened, then I don't know what, in the meanwhile could have occurred at a different spot.

Q. I submit to you, Defendant, that not only were you present prior to the execution, but that in fact, by agreement with you, these people were executed, and I show you a document, Document NOKW-586, Exhibit No. 741.* You will note in the second paragraph of this document, which is a report by the Sonderkommando 10a. "In agreement with the commanding general, 99 of the persons arrested were shot, among them 97 Jews." You were the commanding general, weren't you?

A. Yes.

Q. Then it was in agreement with you that these persons were shot, was it not?

* Document reproduced above in this section.

A. I can only tell you that these people were not shot with my agreement, and this report is just as false as the other report of the Security Service which says that this execution squad was in fact supplied by us. Because then there would have been no need for me to send my Judge Advocate there if I wanted to have these people shot; in that case I would not have issued this order to the population, and then this order on the next day, i.e., on 2 August, in which I expressed my indignation that German soldiers had participated in this matter, and that I strictly forbade that.

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EXTRACT FROM THE TESTIMONY OF DEFENDANT WOEHLER*
DIRECT EXAMINATION

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DR. RAUSCHENBACH (counsel for the defendant Woehler) : General, now we will have to deal with reports which are very much more close to you, for there is an order of the 11th Army which bears your signature. It is Document NOKW-2523, Prosecution Exhibit 853. It is an order of the 11th Army which bears your signature. In this order reference is made to a specific incident and objection taken to the fact that German soldiers attend mass executions, shooting of partisans etc., carried out by others. In the last sentence it says that it is below the dignity of a German soldier to curiously watch such incidents. The order is dated 22 July 1941. If at this early date, mass executions, murdering of civilians, Jews, etc., is mentioned, which might possibly be witnessed by the soldiers of the German Army, doesn't that prove, General, in itself that these incidents were known to you at this time?

DEFENDANT WOEHLER: No. It doesn't prove that. In the first sentence it says, "In view of a special occasion, it seems advisable to call express attention to the following." This special occasion is the already-mentioned incident in Beltsi where Rumanian troops had committed serious excesses. The incident as such is discussed in Document NO-2939, Prosecution Exhibit 1344.

Under the impression of these incidents, which partly had occurred under our very eyes, since this place Beltsi was either or had been marked as the quarters for the headquarters of the 11th Army referring to this specific incident, General Schobert and I had a discussion during which it was determined that he, by approaching Antonescu and the competent local commander,

* Complete testimony is recorded in mimeographed transcript, 10, 11, 14-17 June 1948, pp. 5675-6083.

would see to it that such occurrences would not be repeated. On order of the commander in chief I issued this order to the German troops.

Q. Will you please read one more sentence, General, the second sentence of this order, to make the connection a little clearer.

A. "In view of the low value placed on human life in the East, German soldiers may witness scenes (mass executions, killings of civilian prisoners, Jews, etc.) which at the moment, they are unable to prevent, which however, deeply offend the profound German sense of honor."

* * * * *

5. COOPERATION OF THE GERMAN ARMED FORCES WITH THE EINSATZGRUPPEN AND THE SD (SECURITY SERVICE)

a. Introduction

In paragraphs 60, 69, and 80 of the indictment all the defendants were charged with conduct alleged to be criminal in connection with the extermination policies of the Third Reich, pursuant to which millions of civilians were slaughtered, and innumerable others were ill-treated, tortured, and persecuted for political, racial, and religious reasons. It was alleged that millions of these murders and other crimes in the Eastern Territories occupied by the Germans were committed by special task forces called, "Einsatzgruppen," formed from personnel of the SS, the Security Service (SD) and other police units. The prosecution claimed that, pursuant to an agreement made in April 1941, between the Security Service and the army, these Einsatzgruppen accompanied the German Army into the Eastern Occupied Territories and operated under army jurisdiction for the purpose of exterminating elements of the population considered, "inferior", and, "politically or racially undesirable."

It was alleged that four such Einsatzgruppen, with their sub-units, operated in the army group areas and the rear areas of the East—Einsatzgruppe A in the Baltic region within the area of Army Group North, Einsatzgruppe B mainly within the area of Army Group Center, Einsatzgruppe C mainly within the area of Army Group South, and Einsatzgruppe D mainly within the area of the 11th Army.

Over 20 commanders and officers of the Einsatzgruppen were tried in Nuernberg in, "the Einsatzgruppen Case" (see United States *vs.* Otto Ohlendorf, et al., Case No. 9, vol. IV of this series).

Consequently much of the evidence in the High Command case dealing with the Einsatzgruppen activities has been omitted from the present volume. However, further materials concerning the relation of the Einsatzgruppen and the German Army appear in section C 2, "Treatment of Prisoners of War in German Prisoner-of-War Camps."

b. Evidence

PARTIAL TRANSLATION OF DOCUMENT NOKW-3437
PROSECUTION EXHIBIT 1601

EXTRACT FROM 17TH ARMY CORPS, ORDER NO. 1, 23 JULY 1940,
INITIALED BY DEFENDANT WOehler

Headquarters XVII Army Corps
Ia No. 273/40 Top Secret

Corps Hq., 23 July 1940
17 copies—7th copy

Reference: 1. Commander in Chief of the Army, Army General
Staff File No. 34, G.Z. (1st St.) (I) No. 1620/40 secret dated
5 July (distributed down to the Divisions).
2. 18th Army, Ia No. 1516/40 Top Secret dated 12 July (was
not sent to the Divisions).

Corps Order No. 1

Preliminary Remarks—Corps Order No. 1 is a condensation of
the main orders issued so far.

* * * * *

3. The soldier who comes to the East from the West must not
criticize the way the political authorities conduct the ethnic
struggle (Jewish problem) in the East. These tasks were given to
the *political* authorities by the Fuehrer and are no concern of
military authorities.

* * * * *

THE COMMANDING GENERAL

[Signed] KIENITZ
Lieutenant General, Infantry

[initial] W [WOehler]

TRANSLATION OF DOCUMENT NOKW-2080
PROSECUTION EXHIBIT 847

BRAUCHITSCH DIRECTIVE, 28 APRIL 1941, CONCERNING "COMMIT-
MENT OF SECURITY POLICE AND SD IN UNITS OF THE ARMY"
(THE WAGNER-HEYDRICH AGREEMENT)* AND LETTER OF
TRANSMITTAL, 2 MAY 1941, FROM SECTOR STAFF
SILESIA (ARMY GROUP SOUTH)

[Stamp] Top Secret

Sector Staff Silesia—Ib
No. 158/41 Top Secret

Army Headquarters, 2 May 1941
5 copies—1st copy

Subject: Commitment of the Security Police and the Security
Service in the operational area

Enclosed is transmitted the order concerning commitment of
the Security Police and the Security Service in the operational
area (High Command of the Army/General Staff of the Army/
Generalquartiermeister File Section Military Administration No.
II/2101/41 Secret of 28 April 1941).

In case of *commitment*, this order is to be made known to the
subordinate offices and units as "Secret". *Until such time* it is to
be under the special protection of secrecy.

FOR THE SECTOR STAFF SILESIA

The Chief of the General Staff
BY ORDER:

[Illegible signature]
Colonel, GSC

[Stamp]

Ia Branch

Date of receipt 5 May 1941

Supplement—File 0.15/41

Distribution:

Commander of the 103d Army Group Rear Area, 1st copy

213th Security Division, 2d copy

444th Security Division, 3d copy

454th Security Division, 4th copy

Sector Staff Silesia Ib, 5th copy

* This order by the Commander in Chief of the German Army embodies the agreement
between General Wagner, Chief of Supply and Administration of the High Command of the
German Army, and Reinhard Heydrich, Chief of the Security Police and SD. See testimony of
defense witness General Franz Halder, below.

[Handwritten] Now communicated only to: Ia, Ic [Illegible initial]. In excerpts to Secret Field Police (12 V).

1 enclosure

[Enclosure]

High Command of the Army
General Staff of the Army/Generalquartiermeister
File Reference Military Administration
No. II/2101/41 Secret

Headquarters, High Command of the Army, 28 April 1941

[Stamp] Sector Staff Silesia

[Handwritten] Section Ib 158/41 Top Secret

Secret

Subject: Regulation on Commitment of the Security Police and SD in units of the army.

The execution of special Security Police missions *outside* the unit makes the commitment of special detachments of the Security Police (Security Service) in the operational area necessary.

In agreement with the chief of the Security Police and the Security Service, the commitment of the Security Police and the Security Service in the operational area is regulated as follows:

1. *Missions. a. In the army rear area.*—Before the start of operations, securing of tangible objects (material, archives, card indices of state organizations or organizations hostile to the state, units, groups, etc.) as well as especially important individuals (leading emigrants, saboteurs, terrorists, etc.).

The commander in chief can exclude the commitment of the Sonderkommandos in those parts of the army area where such commitment would disturb the operations.

b. *In the army group rear area.*—Discovering and combating endeavors inimical to the state and Reich, insofar as they are not incorporated in the enemy armed forces, as well as generally informing the commanders of the army group rear areas about the political situation.

The principles for collaboration between the Gestapo and the counterintelligence offices of the armed forces set up jointly on 1 January 1937, are valid, when relevant, for the collaboration with the intelligence officers and/or intelligence offices.

2. *Collaboration between the Sonderkommandos and the military commanding authorities in the Army Rear Area (to 1a).*—The special detachments of the Security Police (Security Service)

carry out their missions upon their own authority. They are subordinate to the armies as far as marching orders, rations, and quarters are concerned. Disciplinary and legal subordination under the Chief of the Security Police and Security Service is not influenced by this. They receive their technical instructions from the Chief of the Security Police and Security Service, and if occasion should arise are subordinated to restrictive orders of the armies with reference to their activity. (See No. 1a.)

A commissioner of the Chief of the Security Police and of the Security Service will be employed in the area of each army for the central direction of these detachments. He is required to bring to the attention of the Commander in Chief of the Army promptly the instructions sent to him by the Chief of the Security Police and Security Service. The military commander is empowered to issue instructions to the commissioner which are necessary to avoid an interruption in operations; they take precedence over all other instructions.

The commissioners are ordered to cooperate closely with the Ic continuously; recall of a liaison official of the commissioner to the Ic can be demanded by the commanding authorities. The Ic has to coordinate the missions of the Sonderkommandos with those of military intelligence, the activity of the Secret Field Police and the necessities of the operations.

Within the scope of their mission and upon their own responsibility the Sonderkommandos are empowered to take executive measures concerning the civilian population. They are required hereby to cooperate with intelligence most closely. Measures which could have an effect on the operations, require the approval of the Commander in Chief of the Army.

3. *Collaboration between the Einsatzgruppen and/or Kommandos of the Security Police (Security Service) and the Commander in the Army Group Rear Area (to 1b).*—Einsatzgruppen and Einsatzkommandos of the Security Police (Security Service) will be installed in the army group rear area. They are subordinate to the commissioner of the Chief of the Security Police and Security Service with the commander of the army group rear area and are subordinated to the latter with reference to marching orders, quarters, and rations.

They receive their technical instructions from the Chief of the Security Police and Security Service.

In case no other means of communication are available they are to use their own radio sets and special codes for transmitting orders. The Chief of Army Signal Communications is to regulate their wavelength allocation.

The commissioner and, if occasion arises, the Kommando leaders of the Einsatzkommandos with the Security Divisions are required to bring the instructions sent to them to the attention of the military commanders promptly—in a state of emergency, the commander in the army group rear area is empowered to issue restrictive orders, which take precedence over all other instructions.

The Einsatzgruppen and/or Kommandos are empowered to take executive measures concerning the civilian population within the scope of their missions, upon their own responsibility.

They are required to collaborate most closely with intelligence.

4. *Delineation of authority between Sonderkommandos, Einsatzkommandos, and Einsatzgruppen and the Secret Field Police.*—The intelligence police missions within the unit and the direct protection of the unit remain the mission of the Secret Field Police alone. All matters of this sort are to be turned over by the Sonderkommandos and/or Einsatzgruppen and Kommandos to the Secret Field Police at once as, vice versa, all occurrences within the scope of missions of the Sonderkommandos must be turned over to the Sonderkommandos and/or Einsatzgruppen and Einsatzkommandos immediately. For the rest, the agreement of 1 January 1937 (*see* No. 1) is also valid.

[Signed] VON BRAUCHITSCH

TRANSLATION OF DOCUMENT NOKW-2079
PROSECUTION EXHIBIT 848

DIRECTIVE BY HIMMLER, 21 MAY 1941, CONCERNING ASSIGNMENT
OF HIGHER SS AND POLICE LEADERS IN THE ARMY GROUP
REAR AREA

[Cover of File Containing Himmler Directive]

[Handwritten]

Commanding General of the Security Troops South, Ia

Supplementary Volume 51

9 June 1942—23 April 1943

Started—19....

Concluded—19....

[Stamp] 39502/55

II 52

Copy of a copy

[Handwritten] 140 a

[Handwritten] Original with war diary in Berlin

Berlin, 21 May 1941

The Reich Leader SS
Diary No. 114/41 Top Secret

40 copies—38th copy
11 copies
Control/No. 10

Subject: Special mission of the Fuehrer

In agreement with the Commander in Chief of the Army, I have provided for Higher SS and Police Leaders for the sphere of political administration for the execution of the special orders given to me by the Fuehrer.

For the duration of the commitment of the Higher SS and Police Leaders in the army group rear area, I am laying down the following instructions with the assent of the Commander in Chief of the Army:

1. *The Higher SS and Police Leader*, with his commanding staff, is *subordinated* as far as *marching orders, rations, and quarters* are concerned to the commander of the respective army group rear area. The SS and Police troops and special task forces of the Security Police are subordinated to the Higher SS and Police Leader for executing the missions assigned by me directly.

The Higher SS and Police Leader is to inform the commander of the army group rear area from time to time concerning the missions assigned to him by me.

The commander of the army group rear area is empowered to give the Higher SS and Police Leader instructions which are necessary to avoid disturbing operations and missions of the army. They take precedence over all other instructions.

2. *The SS and Police forces committed* are subordinated to the commander of the army group rear area as far as *marching orders, rations, and quarters* are concerned. All legal and disciplinary affairs will be handled under their own competence. Insofar as the radio and signal equipment of the SS and Police units is not sufficient for transmission of orders and communications, the commander of the army group rear area, as far as duty permits, will make available the corresponding communications media of the army.

3. *The missions of the SS and Police forces committed* under the Higher SS and Police Leaders in the army group rear area are—

a. Referring to the *SP (SD)* [*Security Police (Security Service)*—The missions of the *Einsatzgruppen* and *Einsatzkommandos* of the Security Police (Security Service) are already

determined through the communication of the High Command of the Army dated 26 March 1941.

b. Regarding the *regular police*—The troops of the regular police committed, with the exception of the 9 motorized police battalions tactically subordinated to the commanders of the Security Divisions, fulfill their missions according to my basic instructions.

Insofar as the fulfillment of these missions allows it, the commander of the army group rear area can employ the troops of the regular police for military missions in agreement with the Higher SS and Police Leader.

4. *The troops of the Waffen SS* have, in general, similar missions to the troops of the regular police, and special missions which they will receive from me from time to time.

5. The commander of the army group rear area has disposition over all SS and Police troops in case of an urgent combat commitment in his own competency of command.

The Reich Leader SS
Signed: H. HIMMLER

Certified:

Signed signature
SS HAUPTSTURMFUEHRER

Certified true copy:

Signed signature
Captain

PARTIAL TRANSLATION OF DOCUMENT NOKW-3453
PROSECUTION EXHIBIT 1605

CORRESPONDENCE AND REPORTS CONCERNING ASSIGNMENT
AND ACTIVITY OF EINSATZGRUPPE D AND SUBUNITS,
JULY 1941 TO JANUARY 1942

[Stamp] Top Secret

11th Army, Section Ic Counterintelligence Officer
No. 69/41 Top Secret

[Stamp] Draft

Army Headquarters, 3 July 1941

To: Hq XXX Army Corps 1st copy

In order to secure important captured political material and in order to round up politically unreliable elements in Beltsy, a Sonderkommando of the Security Police (motorized), consisting of 50 executive officials [Executiv Beamten] in addition to auxiliary personnel, will be attached to XXX Army Corps.

With regard to marching orders, billets, and rations, the Sonderkommando will be subordinate to the army corps. The Sonderkommando performs its work by order of the chief of the Security Police and on its own responsibility. It will report all the measures it takes to 11th Army, Section Ic Counterintelligence Officer through the Ic of the XXX Army Corps.

All military booty is to be brought immediately to 11th Army, Ic Counterintelligence Officer, sphere D, via the Ic of XXX Army Corps. It is to be seen to that the captured political material is taken to the rear by the Sonderkommando in collaboration with the Einsatzgruppe in the army group rear area.

The Sonderkommando will report to the Ic of XXX Army Corps in Stanca north of Iasi in the course of 4 July 1941. The route of march will be—Piatra Neamt, Roman, Targul-Frumos, Iasi, Stanca.

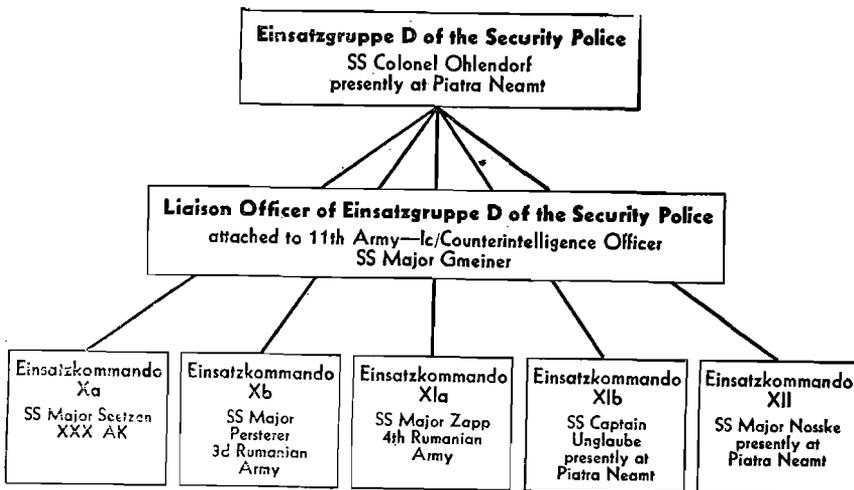
FOR THE ARMY COMMAND

The Chief of Staff
 [Initial] R [RANCK]
 [Initials] RIE [RIESEN]
 [Signed] WOELER

For information to—

Einsatzgruppe of the Security Police (at the same time for the Sonderkommando and the Liaison Officer attached to 11th Army), 3 copies

Ia
 Ic
 Oberquartiermeister
 Counterintelligence Officer (draft)



[Illegible initials]

9 July 1941

Copy

The Commander of the Security Police and Security Service
Einsatzgruppe D with Army Group South
Einsatzkommando 10b

Chernovitsy, 9 July 1941

To Ic of Army Group South through channels

Kommando 10b reached Chernovitsy on Sunday, 6 July 1941, at 1815 hours, after an advance detachment had already established the first contact on the previous day with the Rumanian authorities in the town and had procured billets. Immediately upon arrival, contact was established with the competent commander—Major Dluschanski of the Gendarmes—as well as with other Rumanian headquarters present in the town, and the combing-out of the town for political suspects was started.

On the 7th of this month the arrest of Jews and Communists began on the basis of available wanted lists and newly compiled records. On the 8th of this month a large-scale operation was conducted, in the course of which it was possible to catch all the leading Jewish elements with only a few exceptions. On the following day about 100 Jewish Communists were shot by the Kommando. Counting also the executions of Jews carried out by the Rumanian Armed Forces and police, a total of over 500 Jews were shot in the course of the 8th and 9th of this month. A detachment was sent to Hotin to screen that place.

A report has not yet been received about this.

The Commander of Einsatzkommando 10b

Certified true copy:

Signed signature

[Signed] RIESEN

SS Major

Major

[Stamp] Draft

Top Secret

11th Army, Section Ic/Counterintelligence Officer

No. 92/41 Top Secret

12 copies—12th copy

Army Headquarters, 14 July 1941

To Einsatzgruppe D of the Security Police

1. After it has carried out its assignments in Chernovitsy, Sonderkommando 10b will return to the Einsatzgruppe in about 3–4 days. It will be billeted in Chernovitsy.

2. Einsatzkommando 10a will continue to be subordinated to XXX Army Corps for marching orders, billets, and rations. After

it has carried out its assignments in Beltsy, it will be at the disposal of 11th Army Command from which it will receive instruction in time for further commitment.

3. Einsatzkommando 11a is subordinated to LIV Army Corps in accordance with 11th Army Command, Ic/Counterintelligence Officer No. 91/41 Top Secret, dated 13 July 1941, for marching, billets, and rations in order to carry out its assignments in Kishinev.

4. Einsatzgruppe D of the Security Police, except for the Sonderkommando in action, will continue to be subordinated in Piatra Neamt to the 11th Army for the marching, billets, and rations until further notice.

In accordance with the information received from Army Group South, it is not intended to employ Einsatzgruppe D in the army area.

The report on the measures taken by the Einsatzkommando in Beltsy has not yet been received.

FOR THE ARMY COMMAND

Certified:	The Chief of Staff
[Signature] RIESEN	Signed in the draft WOEHLER
Major	

* * * * *

The Commissioner of the Chief of the Security Police and Security Service with the Commander of the Rear Area of Army Group South

Einsatzgruppe D
Diary Nr. 607/41

[Stamp]
11th Army, Ic/Counterintelligence Officer
20 September 1941
No.
Enclosures
Command Post, 19 September 1941

To 11th Army

[Initial] W [WOEHLER] 20 September
[Handwritten] To the Counterintelligence Officer for action
[Initial] R [RANCK]
29 September

Subject: State property

Reference: Conversation between the chief of staff and SS Colonel Ohlendorf on 11 September 1941.

Enclosures: 1

Enclosed is submitted for your information the report from the Kommando of Einsatzgruppe D employed in Askaniya Nova.

[Signed] OHLENDORF
SS Colonel

[Handwritten]
To the files. [Initials] RIE [RIESEN]

* * * * *

[Stamp] Draft

11th Army, Section Ic/
Counterintelligence Officer
(Counter Intelligence III)

Subject: Measures taken by the Einsatzkommando with the 22d
Infantry Division

Army Headquarters, 6 October 1941

To Einsatzgruppe D

The Einsatzkommando of the Security Police with the 22nd Infantry Division is in the combat area of the division. It is expected that all measures in the town of Genitchek, especially public executions, setting up and arming the Ukrainian Home Guard, etc., will only be taken after previous agreement with the Ic of the division.

FOR THE ARMY COMMAND

The Chief of Staff
[Initials] RIE [RIESEN]

BY ORDER

[Initial] R [RANCK]
Major, GSC

For information to—Ic—22d Infantry Division
[Handwritten] SD

Sonderkommando 10a

In the Field, 8 October 1941

Official Statement

As commander of the patrol sent to Genitchek, I carried out executions there on 2 and 4 October 1941. The executions occurred outside the village, about 500–800 meters away from the last house. No civilian saw the executions; only a few German soldiers of the armed forces saw them from a distance of about 100 meters; these soldiers remained in spite of being told several

times to go away. On account of the small size of the patrol, which consisted only of a leader and three men, it was not possible to take steps against this lack of discipline shown by the soldiers and to keep them further away by placing guards. All other executions I carried out have also taken place in the manner ordered by Einsatzgruppe D.

[Signed] SPIEKERMANN
SS 2d Lieutenant

Sonderkommando 10a

In the Field, 8 October 1941

On 2 and 4 October, Sonderkommando 10a conducted executions about which the enclosed official statement made by SS 2d Lieutenant Spiekermann gives further details, accordingly, it cannot be said that member of my Kommando shot several persons in Genitchek "in public in the center of the town". Since my Kommando has been in action, no executions were carried out in public unless it was exceptionally necessary in individual cases depending on the situation—to deter the population by shooting hostage, saboteurs and plunderers.

It is requested to find out and report how this false report came about.

[Signed] SEETZEN
SS Lieutenant Colonel

* * * * *

[Handwritten] Counterintelligence Officer 22d Division with the request to state his point of view

[Initial] R [RANCK]
13 October

[Handwritten] To 11th Army—via Ic/Counterintelligence Officer for your information

Acting
[Illegible signature]
SS Major
11 October 1941

3d Battalion 65th Infantry Regiment
Section Ic

Battalion Command Post, 12 October 1941

Reference: 65th Infantry Regiment, Section Ic, dated 11 October 1941

Subject: Measure taken by the Einsatzkommando in Genitchek

[Illegible initial]

[stamp]

65th Infantry Regiment

Received: 12 October 1941

Section: Ic

No. Enclosures:

To the Regiment

The execution concerned did not take place in the center of G. which was not what had been reported—but in an open square directly on the edge of town (see sketch). The houses located at the edge of the town are inhabited partly by soldiers, partly by civilians, who *involuntarily* became witnesses. In addition, a battery is located in the vicinity. Furthermore, there was supply traffic and evacuation of civilians along the main road.

It was possible to follow all events from the office of the battalion and to hear the moaning of those about to be shot. The morning after, a pile of clothing was lying at the place which was surrounded by curious civilians and soldiers. Steps were at once taken to have these destroyed.

The trench in which the corpses were buried ought to be the best proof of where the execution took place.

[Illegible signature]

The Representative of the Chief of the Security Police and Security Service with the Commander of the Rear Area of Army Group South Sonderkommando 11b

In the Field, 12 January 1942

[Initial] R [RIESEN] 13

Order for Commitment

1. By order of 11th Army—Oberquartiermeister—an operation will be swiftly carried out at 1100 hours on 12 January 1942, to round up unreliable elements, partisans, saboteurs, any possible groups of the enemy, parachutists in civilian clothing, Jews, leading Communists, etc.

2. 11th Army—Oberquartiermeister—has assigned the execution of the operation to Einsatzgruppe D, Sonderkommando 11b, of the Security Police and Security Service. The forces at the disposal of the Commander of the Town Defense, 2320 men, as well as 55 men from the Military Police and 20 men of the Secret Field Police will be placed at the disposal of Sonderkommando 11b.

3. The Commander of Sonderkommando 11b, SS Major Dr. Braune, will be in charge of the operation. The command center will be at the Ortskommandantur.

* * * * *

The Commander of Sonderkommando 11b

[Signed] DR. BRAUNE
SS Major

Distribution:

11th Army—Oberquartiermeister	2
Einsatzgruppe D	1
Commander of the Town Defense	7
Ortskommandant	1
Ic/Counterintelligence Officer	1
Commander of the Army Rear Area	1
Secret Field Police	1
Military Police	1

—
15

PARTIAL TRANSLATION OF DOCUMENT NOKW-1165
PROSECUTION EXHIBIT 81

REPORT BY SS OBERGRUPPENFUEHRER JECKELN, 1 AUGUST 1941,
ADDRESSED TO HIMMLER, DEFENDANT VON ROQUES, AND
OTHERS, CONCERNING MOPPING-UP OPERATIONS

Higher SS & Police Leader with the Commander of the Rear Area
Army Group South

Report on the Mopping-up Operation in the Sector of Zviahel,
Sluch Valley, Nov. Miropol, Shepetovka, Zaslav, Ostrog,
Horyn Valley and Hoszeza.

Headquarters, 1 August 1941

[stamp]

6th Army Command

4 August 1941

Section concerned: Ia

[Illegible initial] 5/8

I

To 6th Army Command

One copy each to—

Reich Leader SS and Chief of the German Police [Himmler]
Commander of the Army Group Rear Area [South],
Lt. General von Roques

Commander of the Army Rear Area [6th Army],
Major General von Puttkammer
Chief of the Ordnungspolizei [Regular Police]
General of the Police, Daluege

II

1. Upon request of Field Marshal von Reichenau, the Reich Leader SS made available the 1st SS Brigade for a mopping-up operation in the Army Rear Area and/or Army Group Rear Area.

The carrying out of this operation in the area of Zviahel, Sluch Valley, Nov. Miropol, Shepetovka, Zaslav, Ostrog, Horyn Valley, and Hoszcza, took place according to the directives of the Chief of Staff of the 6th Army in agreement with the Commander of the Army Rear Area, Major General von Puttkammer, and the Commander of the Army Group Rear Area, Lt. General von Roques.

2. The units subordinated to me as far as they were available for this operation had the order to—

Arrest and/or execute

- a. Remaining parts of the 124th Soviet Rifle Division.
- b. Armed bands.
- c. Guerrillas.
- d. Persons who have assisted the Bolshevist system.

* * * * *

9. Total number of persons captured—135 soldiers of Ukrainian nationality transferred to transient prisoner of war camp. Shot—73 Russian soldiers (guerrillas); 165 functionaries, and other persons who have rendered considerable service to the bolshevist system, among them 4 women; 1658 Jews who have rendered considerable services to the bolshevist system and who reported Ukrainians to Bolshevist rulers.

[Signed] JECKELN

SS Obergruppenfuehrer and General of Police

PARTIAL TRANSLATION OF DOCUMENT NOKW-3234
PROSECUTION EXHIBIT 1609

EXTRACTS FROM ACTIVITY REPORT OF SS SONDERKOMMANDO XIa
FOR THE PERIOD 18 TO 31 AUGUST 1941

The Representative of the Chief of the Security Police and Security Service attached to the Commander of the Rear Area of Army Group South
Sonderkommando XIa

[Handwritten] Chief of Staff, Ic
[Initial] W [WOEHLER]

In the Field, 8 September 1941

To the Representative of the Chief of the Security Police and
Security Service attached to the Commander of the Rear Area
of Army Group South

Einsatzgruppe D

Subject: Activity report for the period 18–31 August 1941
(including the march to Nikolaev).

File: Current affairs.

Enclosure: 1

I hereby forward the activity report for the period 18–31
August 1941 as an enclosure.

[Signed] ZUPP
SS Sturmbannfuehrer and
Commander of Sonderkommando XIa

To 11th Army—Ic/Counterintelligence Officer via SS Sturmbann-
fuehrer Gmeiner for information

[Initial] R
[Signed] OHLENDORF
[Handwritten] To the files. [Initials] RU

Report on the activity of Sonderkommando XIa in Nikolaev
during the period 18–31 August 1941

I. Military matters

* * * * *

After the Kommando had moved to Nikolaev, a detachment of
three men at once began to search the civilians who had been
taken to the collection center for prisoners, and screened about
4,000 of them. The screening proved that it was necessary to
imprison 227 Jewish suspects, political functionaries, and re-
leased convicts. Two officers and 20 men of the Kommando par-
ticipated in the search for arms conducted by 11th Army on 6–7
September 1941.

Relations with the Feldkommandantur, Ortskommandantur,
and other military headquarters were excellent.

The detachment of two officers and 13 men sent from Nikolaev
to Kherson conducted several search operations with units of the

armed forces which resulted in several partisans being caught. There the collaboration with the Ortskommandantur is also very good.

II. *Police Work*

1. *Communism*.—During the *march* to Nikolaev seven political functionaries of the Communist party were found and executed. Investigation work immediately started in Nikolaev comprised—

a. Searching important buildings of the state, the town, and the party.

b. Suspects.

c. Straightening out the Jewish question.

* * * * *

During the period covered in the report it was possible to apprehend and render harmless seven more political functionaries, leading party members, and partisans on the basis of denunciations and our own investigations.

* * * * *

2. *Jews*

* * * * *

After statements from witnesses, our own findings, and reports from armed forces headquarters had proved that there was a threat of the excesses committed by the Jews getting out of hand (arson, light signals, physical attacks on soldiers and members of the Sonderkommando, insults to the German Armed Forces and to ethnic Germans, etc.), 227 hostages were executed as a reprisal measure. During the same period 122 Jews had to be executed in Kherson for similar offenses, especially because Jews transmitted news for the enemy.

This situation resulted in the necessity of registering the Jews, which was carried out by a Jewish council under the supervision of and set up by the Sonderkommando.

Labor detachments were formed from the Jews on hand who were between 16 and 60 years of age, and able to work and these were placed at the disposal of the units requesting them.

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IV. *Other tasks*

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2. In the course of carrying out security police measures, the Sonderkommando secured several depots containing material of value to war economy and reported them to the Feldkommandantur, or to the economic detachment. Among other items, these consisted of—

- 1 factory for sanitary and pharmaceutical articles, with about 200 iron closets.
- 1 depot with 15 new electric motors which had not been destroyed.
- 1 mobile generator which had not been destroyed, which is being used in the new power plant.
- 1 depot with nonferrous metals.
- 1 depot with new tools and machine parts.
- 1 depot with agricultural implements.
- 1 depot with agricultural machinery, spare parts, fertilizers, and seeds.
- 1 depot with skins from sheep and cattle (not tanned) and sheeps' wool.

[Signed] ZUPP
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT NOKW-629
PROSECUTION EXHIBIT 867

ACTIVITY REPORT OF EINSATZGRUPPE D TO 11TH ARMY COMMAND,
9 OCTOBER 1941

The Commissioner of the Chief of the Security Police and the Security Service assigned to the Commander of the Rear Area Army Group South

Einsatzgruppe D
Diary No. 910/41

[Handwritten] 12/10 Ic R.12/10
[Initial] W [WOEHLER]
Agreed. [Initials] R. RU
[Initials] HER

Field Headquarters, 9 October 1941

To 11th Army Command (through the Ic.)

Subject: Activity of Einsatzgruppe D and proposals for future activities

Two fields of activity were stressed especially in the scope of the work of Einsatzgruppe D during the past weeks—

1. The political pacification.

2. Protection and care for settlements of ethnic Germans.

Apart from the settlement of the Jewish problem, searches for and arrests of partisans played a considerable role in the field of political pacification. In this connection, I refer to the report concerning the activities of partisans at Nikolaev. In the district of a subunit of Einsatzkommando 12 in Grigorjevka, the unit collaborated in the extermination of Red parachutists (*see special letter*). As regard the activity in the areas of settlements of ethnic Germans, I beg to be permitted to refer to the special report which was submitted for your knowledge some time ago. SS Oberfuehrer Hoffmayer, head of the Liaison Office for Ethnic Germans [Volksdeutsche Mittelstelle], carried out resettlements in most districts, so that all subunits of Einsatzgruppe D could be recalled, except one subunit at Speyer.

Locations and working districts of the individual Kommandos are as follows:

(1) The staff of Einsatzgruppe D has its headquarters at Nikolaev.

(2) Sonderkommando 10a, in accordance with agreements, proceeds in the direction of Melitopol via Askaniya-Nova-Rozhdyestvenskoye and is stationed at present at Melitopol.

(3) Sonderkommando 10b started from Alyeshki in order to clean up the peninsula and proceeded with subunits in a southeasterly direction to Nov. Zburjevka and Skadoysk. Incidental to an action against partisans, the Skadoysk subunit lost two men (killed) (one SS officer and one SS NCO) and six men wounded (three wounded severely and three slightly, but without danger to life) on 29 September 1941.

(4) Sonderkommando 11a together with a subunit is located at Kherson and is clearing up the districts to the north of Kherson; and advance detachment is at Nov. Majatashka at present ready to proceed with LIV Army Corps.

(5) Sonderkommando 11b is stationed at Gross-Libental near Odessa. It has taken over the protection and the care for the welfare of ethnic Germans in the districts around Odessa and is in readiness for Odessa itself.

(6) Einsatzkommando 12a has taken headquarters at Nikolaev in order to replace Sonderkommando 11a, two subunits being stationed at Speyer in the Berezanski district.

The following suggestions are submitted for the future and assignment of forces that have become available in the meantime:

1. The staff of Einsatzgruppe D to remain at Nikolaev until further notice.

2. Sonderkommando 10a, first to work at Melitopol, a small advance detachment to proceed in the direction of Mariupol together with the XXX Army Corps.

3. Sonderkommando 10b to continue cleaning up on the peninsula to the south of Aljeshki, for 8-10 days, and then to remain in readiness for Odessa, if it should be needed there.

4. Sonderkommando 11a to finish cleaning-up work to the north of Kherson, then to clean up to the east of 10b in the direction of Perekop via Maiatashka, an advance detachment to proceed with the LIV Army Corps.

5. Sonderkommando 11b to remain before Odessa for one or two more weeks, and then to be recalled if no decisive results concerning the conquest of that town is reached by that time.

6. Einsatzkommando 12: One subdetachment to remain at Nikolaev for the time being. The other half of the Kommando to clean up, following 10a, the area to the west of Melitopol-Vasiljevka on the Dnepr up to the Dnepr bend.

As SS Oberfuehrer Ohlendorf, due to a visit of Reich Leader SS [Himmler] to Einsatzgruppe D at Nikolaev, started on an official trip to Berlin, SS Obersturmfuehrer Seibert asks for a time to be fixed for an oral report on 11 October, the time to be agreed upon with the liaison officer.

As Deputy:

[Signed] SEIBERT

SS Sturmbannfuehrer

[Handwritten notation] Conference took place at Novonikolaevka on 11 October. [Initial] W [WOEHLER]

PARTIAL TRANSLATION OF DOCUMENT NOKW-2129
PROSECUTION EXHIBIT 951

EXTRACT FROM ACTIVITY REPORT OF 454TH SECURITY DIVISION
FOR PERIOD FROM 1-10 OCTOBER 1941

[Stamp]

Security Division 454

Received: 14 October 1941 [Illegible initial]

Section: Ib File No. 5257

Division Staff Headquarters, 12 October 1941

Department VII

File V. 5-5

To Dept. Ib

Enclosed please find activity report for the period from 1-10 October 1941, for war diary.

[Illegible signature]
Senior Military Administrative Councillor

Enclosure 7

[Handwritten] Enclosure 2

Section VII

Division Staff Headquarters, 2 October 1941

Subject: Visit to the Feldkommandantur 195/Kiev/ on 1 October 1941

* * * * *

The total population is estimated at about half the normal number, that is, about 400,000. The Jews of the city were ordered to present themselves at a certain place and time for the purpose of numerical registration and housing in a camp. About 34,000 reported, including women and children. After they had been made to give up their clothing and valuables, all were killed; this took several days.

* * * * *

Military Administrative Councillor

PARTIAL TRANSLATION OF DOCUMENT NOKW-1573
PROSECUTION EXHIBIT 883

EXTRACT FROM ACTIVITY REPORT, 14 NOVEMBER 1941, FROM
ORTSKOMMANDANTUR I/853 TO COMMANDER
ARMY REAR AREA 553

Simferopol, 14 November 1941

Ortskommandantur I/853
File No. 948/41

Subject: Activity report for the period 5-15 November 1941

To Commander Army Rear Area 553

* * * * *

II. Political.—Simferopol had about 156,000 inhabitants, of whom about 120,000 remained. Among these were 70,000 Russians, 20,000 Ukrainians, 20,000 Tartars, 20,000 Jews; the remainder is divided into various racial strains; scarcely 100 racial

Germans, whose registration was begun by the Ortskommandantur.

The city is slightly damaged but all plants and businesses have been plundered.

The 11,000 Jews remaining are being executed by the Security Service.

The civilian population is not hostile towards the German troops but there may still be many Communists in the city.

* * * * *

[Signature illegible]
Captain and Town Commander

TRANSLATION OF DOCUMENT NOKW-631
PROSECUTION EXHIBIT 568

REPORT FROM OHLENDORF, COMMANDER OF EINSATZGRUPPE D,
TO 11TH ARMY HEADQUARTERS, 12 FEBRUARY 1942,
CONCERNING CONFISCATION OF WATCHES AND
MONEY DURING ANTI-JEWISH ACTIONS

The Commissioner of the Chief of the Security Police and the Security Service assigned to the Commander of the Rear Area of Army Group South
Einsatzgruppe D

Diary No. 381/42 To 11th Army Headquarters

Field Headquarters, 12 February 1942
[Initial] W [WOEHLER]

Subject: Confiscations by Einsatzgruppe D

Reference: Telephone conversation between Brigadier General Woehler and SS Hauptsturmfuehrer Seynstahl on 12 February 1942

I. *Watches confiscated*—The watches confiscated in the course of the anti-Jewish actions were duly entered as received. The watches which represent valuables (gold and silver watches) were sent to the treasury in Berlin, as directed. The rest of the watches, whose value is so trifling that their general utilization does not appear expedient, were handed over to members of the armed forces (officers and men) and to members of Einsatzgruppe D at a nominal price or gratuitously, dependent on the individual case.

As a prerequisite for the distribution the individual had to prove that his own watch had been lost in action or had become useless, or that he needed a watch in line of duty.

By experience, almost only old watches are being found here, a great number of which are useless. At the moment there are a number of repaired watches still on hand which may be supplied according to the standard mentioned above.

II. Confiscated rubles.—The money seized in the course of the anti-Jewish actions was duly entered as received and transmitted, as directed, to the Reich Credit Bank to be credited to the Reich, except for a small amount which is required for routine purposes (wages, etc.).

In one case I was asked whether ruble sums can be made available for the town of Simferopol. I have referred the applicants to the Reich Credit Bank, adding that I am of course ready to place the rubles at their disposal against a receipt from the army. However, I am not authorized to dispose of the money for the benefit of a third party, for example, a municipality, since the funds concerned are Reich property.

[Signed] OHLENDORF
SS Oberfuehrer

PARTIAL TRANSLATION OF DOCUMENT NOKW-2909
PROSECUTION EXHIBIT 1320

EXTRACTS FROM ENCLOSURES, 1-31 MARCH 1942, TO 10-DAY
REPORT OF REAR AREA ARMY GROUP SOUTH TO OKH, CONCERN-
ING ACTIVITIES OF SECRET FIELD POLICE AND SD

[Handwritten] Enclosure 1
Section Ic/Counterintelligence Officer

Headquarters, 31 March 1942

Activity Report
Section Ic/Counterintelligence Officer
Period 1-31 March 1942

* * * * *

Transfers

The PW Rudenko, Konstantin (bearer of important secrets) was taken by plane to the OKW in Berlin on 17 March 1942.

In addition, at the request of the Higher SS and Police Leader, two Ukrainian interpreters from the Field Signal Headquarters, two Ukrainian interpreters from the 213th Security Division, and two Ukrainian interpreters from the Staff of the Commander of the Rear Area of Army Group South which were turned over

to the Security Service, since they are very strongly suspected of having actively participated in the Bandera movement*.

* * * * *
[Signed] WISSARD
Major

The Field Police Director in Charge, attached to the Commander
of the Rear Area of Army Group South
Diary No. 373/42 Secret

[Handwritten] Enclosure 2
[stamp] Secret
Command Post, 29 March 1942

Subject: Activity report

The groups of the Secret Field Police during March 1942, with the exception of the groups committed in the large-scale operation against partisans in the Snovsk area, were mainly engaged in preventing new partisan bands from being formed in the area of the 444th Security Division in the districts of Sinelnikovo-Znamenka-Orekhovo, and Kuibyshev; and in the area of the 213th Security Division in the district Mirgorod-Petrikovka.

In addition, the groups were committed to find parachutists who had been dropped to an increased extent in the districts of Romny, Sinelnikovo, and Globino.

According to reports received so far, about 200 partisans were rendered harmless.

The detailed activity report will be submitted immediately as soon as the reports from the groups have been received.

As Deputy:
[Signed] WERTEL
Field Police Commissioner

The Field Police Director in Charge attached to the Commander
of the Rear Area of Army Group
File No. 324/42 secret

[Handwritten] Enclosure 5
Headquarters, 17 March 1942

* Banderivtsi movement, a faction of the Organization of Ukrainian Nationalists (OUN). During World War II, this movement—named after its leader, Stepan Bandera—fought the German occupation administration in the Ukraine as well as Soviet partisans operating in the Ukraine.

Short summary of work in February 1942

During February 1942, the combating of partisans was continued, and the main attention was directed to building up the information network in order to prevent the reunion of such groups right from the start. In this way it was possible to render 55 partisans harmless in the area north of Mirgorod in the course of the mopping-up operations, including a partisan leader, the former teacher and present burgomaster of the district of Komysyno.

A second group at Repki and Dobrianka which had dissolved during the winter months was caught, and 130 members of this band were shot. One transmitter was secured.

Near Marganecz a large number of members of a destruction battalion were ascertained, who had made it their job to blow up the pits which were nearly completed. Hereby 127 persons were found guilty and shot.

It was possible in the district of Sofievka to ascertain a partisan group of 20 and to secure arms.

Furthermore, in Saporoshoije a band of 18 criminals was placed under arrest. This band also included females who had been given the job of enticing drivers of vehicles to go into their rooms for sexual intercourse in order to give their accomplices an opportunity thereby to plunder and damage the unguarded vehicles.

During the period covered by the report, large detachments of the Secret Field Police were transferred to the area Snovsk-Karjukovka to ascertain the location, strength, and arms of the partisans there in connection with the imminent drive.

Furthermore, the combing out of the village in the vicinity of Mirgorod for Russian soldiers who had not yet been registered with PW camps, was continued. In one district alone about 1,900 Russian soldiers, who had not been registered, were apprehended and brought to the transit camp.

The activity of the Secret Field Police Group gives the following picture for the period covered by the report:

10,477 persons were screened from the counterintelligence point of view.

2,058 persons were arrested.

807 persons were shot as partisans, guerrillas, saboteurs, etc.

2,239 persons were taken to PW camps.

5 German soldiers were arrested for desertion.

Captured material—

65 rifles of Polish and Russian origin.

2 light machine guns.

- 19,250 rounds infantry ammunition.
 - 1 Russian tommy gun with ammunition drum.
 - 3 revolvers.
 - 1 pistol.
 - 3 bayonets.
- 1,015 kilogrammes explosives Tol
 - 2 boxes of explosives.
- 70 detonators for hand grenades.
 - 1 transmitter and receiver from the Repki district in addition.

Acting:

[Signed] WERTEL
Field Police Commissioner

[Handwritten] Enclosure 4

The Commander of the Rear Area Army Group South
Section Ic, No. 5889/42 Secret

Headquarters, 20 March 1942

Secret

Subject: Commitment and tasks of the SD detachments [SD
Kommandos]

A detachment of the SD, commanded by Hauptsturmfuehrer Plat, has been committed in the rear area of the army group. The detachment has to carry out orders pertaining to Security Police matters according to the direct instructions from the Reich Leader SS, for which they themselves are responsible. All headquarters are requested to help the detachment in carrying out its orders (transportation possibilities, billeting, rations). If possible, requests from the detachment to be provided with troops for cordons are to be granted. It is prohibited to have members of the Wehrmacht participate actively in executions. The order from Army Group South, Ic/Counterintelligence officer, Counter Intelligence III, of 24 September 1941, distributed with [the letter from] the Commander of the Rear Area of Army Group South, Ic, dated 4 October 1941, concerning the combating of elements hostile to the Reich, is referred to.

The commander of the detachment will inform me of his intentions; the division and Feldkommandantur 194 and 197 will be informed about the areas where the detachments are committed by the Ic expert of the Commander of the Rear Area of Army Group South. The detachment commander will contact the com-

DR. LATERNSEER (counsel for defendant von Leeb) : Now, some questions with reference to Einsatzgruppen. What intentions existed with respect to the administration of the conquered territories of Russia?

WITNESS HALDER: In the special instructions attached to the Barbarossa Order of the OKW it is stated that it was intended, as soon as possible, to create politically independent administrative organs in the rear of the armies. These are the later [established] Commissariats [Kommissariate].

Q. And whose intentions were those?

A. They were expressed in the OKW order; I would, therefore, assume that they were the intentions of the political leadership, that is, Hitler's.

Q. What was to be done for the preparations for this administration?

A. For the preparation for this administration in material and personnel respects, Sonderkommandos were to be activated within the jurisdictional area of the operating army. It is stated in that order that these Kommandos were to receive their assignments from the Reich Leader SS [Himmler] who, on his part, was to receive his assignments from Hitler and was to be solely responsible to him. It was ordered that the OKH was to take care that the Kommandos which were authorized through this order, were allowed to pass the closed border, and that these Kommandos, as far as economic matters were concerned, were to receive quarters, supplies, etc., from the army.

Q. General, what were these Kommandos to do; what were they to do in preparation of the political administration?

A. That was not stated in the order, but we had taken note of certain incidents, particularly incidents which had occurred in France. We knew that the SD (Security Service) was to find out the political leaders and centers of resistance which might be dangerous. Such investigations and examinations take a long time and, therefore, one cannot altogether ignore the idea that these investigations have to start as early as possible; and that, therefore, these particular Kommandos are to be made part of the operating armies. In spite of this, the Kommandos at that time met with objections within the army. There were two reasons. On the one hand, it meant a restriction of the concept of executive power. In the area where the commanders of the various armies bore the sole responsibility, there were now, from this moment on, a number of groups, even if only small groups, whose task and purpose was not known to us and was secret from us

intentionally. Just because their intentions and purposes were not made known to us, we were extremely distrustful of these Kommandos, without knowing in detail what their duties were.

Q. To whom were these Kommandos subordinate?

A. They were subordinate to certain leaders of the SD.

Q. I mean on the top level.

A. Ultimately, to the Reich Leader SS.

Q. What kind of people composed the Einsatzgruppen?

A. According to the order, they were members of the SD and the SS.

Q. Were members of the armed forces also in these Kommandos?

A. No.

Q. Who was in charge of them; who led them?

A. They were led by ranks [Dienstgraden] of the SS.

Q. How was the economic supply of these groups handled?

A. Concerning quarters, food rations, fuel, etc., and other current supply matters, they were taken care of by the army concerned.

Q. Why was this so?

A. Because it was quite impossible to set up a special supply service for these people.

Q. What had preceded the eventual regulation of this question?

A. In the basic order of the OKW, namely the previously mentioned special regulations attached to the Barbarossa Order, two factors had been provided, two matters concerning the relations between the Reich Leader SS and the OKH, regarding the conditions which might arise from the restriction of executive power through these Kommandos, and, secondly, regarding the supply which was just discussed. It was stated in the order that these two aspects have to be agreed upon between the Reich Leader SS and the OKH [High Command of the Army]. The responsible office of the OKH was that of the Generalquartiermeister Wagner. The staff of the Reich Leader SS tried to contact the Generalquartiermeister in order to come to an agreement concerning these questions.

Q. What happened then?

A. The first conference passed without any result. Then, Heydrich [then Chief of the Security Police and SD, who was immediately subordinate to Himmler] intervened, and another

conference took place between Generalquartiermeister Wagner and Heydrich.

Q. And what was the result of that conference?

A. The result was an agreement and regulations as it had been demanded by the OKW and as it was then reflected in an order by the Commander in Chief of the Army [General von Brauchitsch]. NOKW-2080, Pros. Ex. 847.* Generalquartiermeister Wagner reported to me about the conference. Before the conference took place, I asked him to try and find out what purpose these Kommandos were to have, and then he was to find out whether he could restrict the possibilities for their activities. In this conference, Heydrich told Generalquartiermeister Wagner that these Kommandos were to have the purpose of discovering political centers of resistance and of investigating where they were and on what levels they existed, and thus to give information to the future political government of the respective area concerning these possible sources of resistance. Furthermore, these Kommandos were to deal with sources of resistance which might be dangerous to the army, and thus to participate in the security for the rear army areas within these armies; that was the substance of the conditions.

Q. What else transpired during this conference between Wagner and Heydrich?

A. It was said that the Kommandos were to be distributed to the various army areas, and to whom these Kommandos were to turn with respect to their supply. Further, it was established that the Kommandos were to report to the [Army] commanders in chief where they worked, at what time, and concerning their movement; they were bound to the restricted orders of the respective commander in chief. Unless I am mistaken, the order which was subsequently issued had a passage, a provision, to the effect that, Army headquarters could restrict their movements when operational considerations demanded it.

Q. To whom were these Kommandos subordinated in disciplinary matters?

A. They were subordinated to their SS superiors.

Q. From whom did they receive their actual directives?

A. Only from their superiors.

(Recess)

Q. General, we just talked about the fact that you stated that these Einsatzgruppen units were subordinate to the SS agencies and received directives from Hitler.

* Document reproduced above in this section.

Now, in what manner did a subordination of these units to agencies of the armed forces take place?

A. Such a subordination would only have been feasible by a decision of Hitler's, upon demand by the OKH.

Q. Why do you say "Hitler"? Why had it to be the top level?

A. Because Hitler was the superior of Himmler. The OKW was not the superior of Himmler. Thus, their common superior had to make the decision.

Q. Was such an order actually ever issued?

A. No, not as long as I was in office.

Q. Was the OKH informed as to the real task of the Einsatzgruppen units?

A. No.

Q. Did you learn at that time that the Einsatzgruppen shot thousands of Jews?

A. No, I only learned of that fact in Nuernberg.

* * * * *

DR. RAUSCHENBACH (counsel for defendant Woehler): General, first of all, will you describe, for the benefit of the Tribunal, the structure of the staff of a [field] army and what expert departments and sections were part of it?

WITNESS HALDER: The staff of the high command of an army is arranged for the solution of tasks along the following lines: Operational direction, including intelligence and signal service, transportation, and supply. Furthermore, the administration of occupied territories, representation towards the civilian administration, war economy, and so forth. Now, other sections dealt with the army medical service and veterinary service. Then there was a department dealing with judicial questions, to serve the commander in chief in his capacity as the judicial authority.

* * * * *

Q. Now, what were the tasks of the chief of the General Staff of the [field] army? Give us a survey first, if you please.

A. All his tasks, collectively, consisted in organizing the service of the staff and directing it in such a manner that the tasks incumbent upon the headquarters of the army [AOK] would be discharged without any friction, speedily and thoroughly. That was the organizational part of his work.

Q. General, you just mentioned that the the chief of the General Staff of the army had no power of command except over his own staff. Now, who belonged to this sphere of command?

A. The persons belonging to his sphere of command are the departments and sections or their heads mentioned before, in as far as they were not subject to special regulations governing subordination.

Q. And who were the persons who were not subject to the jurisdiction of the chief of staff?

A. For instance, the chief of the Legal Department, and the officials also were not subordinate to him in disciplinary respects.

Q. Now, how about the Abwehr, the counterintelligence officer?

A. The Abwehr, the counterintelligence officer, was the representative of the counterintelligence service which was rooted in the OKW [High Command of the Armed Forces]. Thus he received his factual directives along this channel. Now, as far as his person as a member of the staff was concerned, he was a staff officer and thus subordinate to the chief of staff.

Q. Were there matters regarding the Abwehr, that is, the counterintelligence officer did not have to inform the chief of staff or was not even allowed to do so?

A. There were matters of which he did not have to inform the chief of staff, undoubtedly. With special spheres of the Abwehr service he had to deal alone in his service for the Abwehr department. I do not know of cases in which the Abwehr officers were not allowed to inform the chiefs of staff. I can only recall such cases from peacetime.

Q. General, Dr. Laternser previously asked you regarding the whole matter of the Einsatzgruppen and Einsatzkommandos. I shall refer to the topic afterward, but just now there is one question: What officer of the staff of an army had any official service or contact with the Einsatzgruppen or the Einsatzkommandos?

A. The section Ic, AO, that is, the counterintelligence [Abwehr] officer.

* * * * *

Q. You said, that there was a supply officer; what was his title within an army?

A. Within the scope of an army, all matters and services connected with supply, were under the Oberquartiermeister of the army.

Q. And this Oberquartiermeister, he was also subordinate to the chief of staff of the respective army, was he?

A. Yes.

Q. What significance did the activity and the sphere of tasks of the Oberquartiermeister have, as far as the line of thought of the chief of staff was concerned?

A. The chief of staff in the first place is the person who coordinates thoughts and facts, theory and reality. Now that claimed very much of his time and effort. Supply matters are influenced by him, through the orders he gives to the Oberquartiermeister. In that way, he exercises a directing influence upon supply matters. For the rest, the Oberquartiermeister is working independently in a very large measure.

Q. Does the Oberquartiermeister have, or occasionally have, tasks of minor importance to perform for the chief of staff and for his direction of operations?

A. Yes, of course.

Q. The prosecution asserts that the Einsatzkommandos, for instance, were occasionally supplied with motor vehicles, for their purposes. Did the chief of staff have to be interested in such an activity of the Oberquartiermeister?

A. If the chief of staff of an army has to concern himself with the distribution of motor vehicles by his Oberquartiermeister, then, of course, he is a failure. He is in the wrong place.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Witness, it was necessary to have an agreement with the Wehrmacht, before such an agency as the Einsatzgruppen could enter the operational area, was it not?

WITNESS HALDER: It was the execution of an order of the superior agency, which was the OKW. It is stated in that order that the OKH has to discuss with the Reich Leader SS a certain problem, a certain complex of questions, and that was for us the reason for the measures that gave for us the grounds for the conference, for the discussion.

Q. Yes, I understand that, but my question is that it needed an agreement of the Wehrmacht, that is, an order of the OKW, and the execution of that order by the OKH, before the Einsatz-

gruppen would be permitted to go into the operational area of the army. Some agreement was necessary, was it not?

A. The agreement had to be reached before they entered the area.

Q. And your testimony is that you never knew, during the war, the purposes and intentions of the Einsatzgruppen?

A. No, we never had any authentic information about that. At least not I, for myself, nor my Commander in Chief [Brauchitsch].

Q. "Authentic information". What other kind of information did you have, perhaps?

A. We did not have any concrete unofficial information. We had to rely on the experiences which we gained in Poland and partly also in France in connection with the SD, and consequently we were very distrustful.

* * * * *

Q. Are you suggesting the possibility that the commanders in chief of the army groups and the armies knew about this, these executions, and did not report it to Brauchitsch and yourself?

DR. LATERNSEER: I object. Everything is possible, but the witness cannot testify to that. That is no longer testimony. I object to the question because it has no probative value.

PRESIDING JUDGE YOUNG: It goes to his credibility. He may answer.

MR. MCHANEY: Did you understand the question?

WITNESS HALDER: I understood the question. I can only say in reply, I can only give you a classic quotation, "Nothing is impossible in wartime". Therefore, in spite of the secrecy order, some individual agencies might have heard about these matters.

Q. In any event, you never received any information from the Oberquartiermeister on the staff of the armies, the Ib officers on the staffs of the army group? You never received any information from the intelligence of the OKH on the activities of the Einsatzgruppen? Did I understand you to state that you had never seen this agreement except here in Nuernberg, the agreement between Wagner and Heydrich?

A. No. I know of no written agreement. I only know of the oral information of the Generalquartiermeister to me.

Q. I will hand you Document NOKW-2080, Prosecution Exhibit 847.* Witness, the first letter of this document is dated

* Document reproduced above in this section.

2 May 1941 from Sector Staff Silesia. I believe you have already stated that you did not know that Sector Staff Silesia was Army Group South. You did not know that?

A. I cannot recall that particular fact.

Q. The attached order is signed by Brauchitsch, dated 28 April 1941, and the subject, as you correctly stated, is "Regulation on the commitment of the Security Police and SD in units of the army".

A. Yes.

Q. Does the file heading of this order show that it was prepared by Generalquartiermeister Wagner, your subordinate on the General Staff of the OKH?

A. I may repeat what I said earlier on this morning. The section War Administration was the special section which dealt with questions of executive powers by the direct order of the Commander in Chief of the Army [Brauchitsch]. The rest of the OKH, the General Staff of the Army, the Generalquartiermeister to whom this section partly belonged, I designated this morning as the visiting card [Visitenkarte] of that section. In questions of the executive power, it [Section War Administration] acted on immediate orders by the Commander in Chief of the Army.

Q. But this is nonetheless prepared by Wagner and the Generalquartiermeister, you know that, do you not?

A. Yes, certainly it was prepared by Wagner.

* * * * *

Q. Witness, getting back to the Heydrich-Wagner agreement which also came from this same department War Administration of the Generalquartiermeister, did you or did you not see this written agreement before it was issued, before it was signed by Brauchitsch and issued by the OKH?

A. I cannot tell you that today with any amount of certainty.

Q. Would it not be passing strange if a document of this importance were distributed without the knowledge of the Chief of the General Staff of the German Army, when it had been prepared by a direct subordinate of the Chief of the General Staff?

A. No, that is not so very strange. After all, I was informed of the contents of the agreement. Now, how it was actually formulated was a matter of secondary importance.

Q. Well, perhaps you remember on the information you received that the commander in chief in the operational area had

the power to stop the Einsatzgruppen where their commitment would cause disturbances to the operation?

A. Yes, I recall that. I recall the idea, I do not recall the formulation.

Q. Well, will you affirm for me that the wanton slaughter of thousands of people in the operational area of the armies would be a disturbance which would permit the Commander in Chief to interfere?

A. This need not necessarily have to be a disturbance in the operational sense. I actually do not have any experience how these matters occurred, but I cannot quite imagine that it would constitute a disturbance in the operational meaning.

* * * * *

Q. Witness, is it not well known to you that the catastrophe [sic] of the Russian prisoners of war led to an increase in partisan warfare and that that fact was reported to the OKH?

A. I personally saw no connection between the fate of the prisoners of war, and the partisan struggle, nor did I receive reports, and I cannot properly conceive of such a connection.

Q. Then you find it unreasonable to say that the slaughter of Jews and Communists who formed part of the Russian population in the operational areas was an act which was apt to cause indignation among the Russian population?

A. It certainly provoked indignation among parts of the Russian population. I am firmly convinced of that, but that is my objective view. I have not talked about it with anybody.

Q. And it would not be unreasonable for a commander in chief to take the position that the activities of the Einsatzgruppen in executing substantial parts of the population was a threat to his security and to his operations? That is not unreasonable in your judgment, is it, Witness?

A. Certainly not unreasonable.

* * * * *

Q. Now, you will remember from this agreement, this Heydrich-Wagner agreement, which you have in front of you, that the commissioner of the Einsatzgruppen was required to report his instruction to the Commander in Chief?

A. Yes, I have read it.

Q. And you also remember that close liaison and cooperation

between the commander of the Einsatzgruppen and the Ic officer was ordered in the agreement?

A. Yes, I read that.

Q. Now, in this agreement will you look at 1, section b. [Section] 1, is entitled, "Missions", and section b is entitled "In the Rear Area of the Army Groups [Heeresgebieten]".

A. Yes.

Q. Do you find the second paragraph of the part b where it reads "The principles for collaboration between the Gestapo and the intelligence offices of the Wehrmacht set up jointly on 1 January 1937, are valid, when relevant, for the collaboration with the intelligence officers and/or intelligence offices." Do you find that?

A. I beg your pardon. I have not found this passage. The Section Ib, does not contain this statement.

Q. This is at the bottom of page 2 of the agreement.

A. That is the second paragraph. I have now read the passage. May I ask you to repeat the question?

Q. Well, I have not put the question. My question is, will you affirm to the Tribunal that these regulations mentioned here of 1 January 1937, for the collaboration between the Gestapo and the intelligence officers of the Wehrmacht give the intelligence officers power to issue orders to the Gestapo?

A. I cannot confirm this because I do not know the contents of this agreement dated 1 January 1937.

* * * * *

Q. Let me put to you your diary entry for 19 September 1940. This entry is marked in red pencil. It is the entry of 19 September 1939. That is 1940, is it not? Or 1939?

A. Yes, 1939.

Q. Yes. Now, Witness, is the sense of that entry as follows: A. "Heydrich (through Wagner)—army must be notified of any operations assigned to them. Liaison officers, Himmler—Oberbefehlshaber des Heeres [Commander in Chief of the Army (Brauchitsch)]. B. Clean up once for all—Jews, intelligentsia, clergy, nobility. C. Army demands—Clean-up after withdrawal of army and transfer to civil administration early December." Is that the sense entry, Witness?

A. The contents in the short jottings which have just been

read out, is outlined in your words, but I can no longer reconstruct the details. It is apparently Poland.

Q. Yes. Is this the same Heydrich and Wagner who negotiated the agreement in 1941?

A. This is not an agreement. At any rate, this is not referred to. It is a report by Wagner regarding a matter which he had heard either via Heydrich or directly through Heydrich.

Q. And Wagner reported to you that Heydrich, and the SS, were intending to clean up once for all the Jews, the intelligentsia, the clergy and the nobility, is that correct?

A. No, that is not correct. The matter at issue here was Poland. We were supposed to, or wanted to institute a military administration in Poland. Now, according to this entry, that was prevented, possibly by instigation of Heydrich, and in this note an idea is recorded which referred to Hitler's demands to Funk*, to the effect that Jews, the intelligentsia, clergy, and nobility in Poland should be liquidated.

Q. And your later reports from Poland indicated that that plan was carried out at least to some extent, is that right?

A. That was the subject matter, yes, that was indicated. It was the subject matter of the complaints of the Commander in Chief of the German Army to Hitler, and immediately upon the end of operations in Poland it led to the grave tension between Hitler and von Brauchitsch.

* * * * *

Q. Let us look at the order of 7 October 1941, also signed by your subordinate Wagner. This is Document NO-3422, Prosecution Exhibit 367. Now, Witness, was this order signed by your subordinate Wagner and issued by the OKH?

A. I cannot find that. I cannot find it. The page which I have in front of me is entitled draft. Now regarding its issuance, I cannot make any statements. It does not even bear the file number. There is no signature. It just says "Signed: Signature," and no signature.

Q. Can you find the file heading on this document?

A. A file heading is stated. Under reference, a file number is given, do you mean this reference?

Q. Does it say, the Supreme Commander of the Army, General

* Reference is apparently to Hans Frank—not to Funk. Hans Frank was made Governor General of the occupied Polish territory on 12 October 1939. See Trial of the Major War Criminals, *op. cit. supra*, vol. XXII, p. 542.

Staff of the Army, Generalquartiermeister, Department Prisoner of War Administration?

A. Department Military Administration.

Q. Military Administration, yes. Now, Witness, will you look at the orders referred to in this order of 7 October 1941. Do you see the reference *a* there to the order dated 28 April 1941? Do you find the reference *a*?

A. Reference *a* is an OKH decree which is not contained in here.

Q. Yes, I know. Dated 28 April 1941. Is that right?

A. Yes.

Q. And it is Roman numeral II/2101/41?

A. Yes, that is the reference here.

Q. Well, Witness, will you take my word for it that that reference is to the Wagner-Heydrich agreement which was distributed on 28 April 1941? I think you have a photostatic copy in front of you if you would like to check my statement.

A. Yes; that is this decree.

Q. Reference *a* is to the Wagner-Heydrich agreement, 28 April 1941.

A. It refers to the order. May I have the copy once again? Thank you. It is the order regarding the employment [commitment] in accordance with the agreement.

* * * * *

Q. And it states that the Einsatzgruppen, or rather the Sonderkommandos will operate in the transient camps of the rear area of the army groups to segregate prisoners of war, does it?

A. Yes, in order to segregate intolerable elements, Sonderkommandos of Security Police and SD, being under their own responsibility, are to be employed according to the directives; but I cannot see the directives.

Q. And, Witness, under 2b of this order, does it not state that the Sonderkommandos are to liquidate the prisoners of war segregated by them?

A. It is stated the employment [commitment] of the Sonderkommando is to be carried out in agreement with the commanders of the army group rear areas (PW district commanders); it is to be arranged in such a way that the segregation takes place as inconspicuously as possible and liquidation carried out as far

remote from the transient camp in the locality so that the population and the other prisoners of war will get no knowledge of it.

Q. Witness, to whom was this order distributed?

A. This order was directed to the three army groups, to the commanders of the army group rear areas—

Q. Who got the tenth copy?

A. The tenth copy was distributed to my adjutant; that is correct.

Q. And the 11th copy went to your Oberquartiermeister I?

A. Oberquartiermeister I, that is correct.

Q. And I think also that three other departments on your general staff received copies of this order.

A. Yes, the Operations Department, Oberquartiermeister IV, the Heereswesen Department [Department Army Matters], and the Foreign Armies East. In addition, the General for Special Duty, the Legal Group—

Q. Witness—

A. Yes.

Q. Do you still maintain that you did not know what the tasks and purposes of the Einsatzgruppen, the Sonderkommandos, and Einsatzkommandos were?

A. From this document, it is to be seen that the people of the Kommandos had orders to carry out certain segregation and to carry out liquidation.

Q. Do you know whether this order was carried out?

A. I cannot tell you that. I do not know.

Q. Do you have—

A. I never heard anything of this being carried out.

Q. Do you have any information that it was not carried out?

A. Neither the one nor the other.

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EXTRACT FROM THE TESTIMONY OF DEFENSE WITNESS
SS MAJOR GENERAL OTTO OHLENDORF*

* * * * *

* Complete testimony is recorded in mimeographed transcript, 4, 6 August 1948; pp. 9265-9291, 9465-9494.

Defendant in the case of United States vs. Otto Ohlendorf, et al., Case No. 9, Vol. IV.

EXAMINATION

JUDGE HARDING: I have some questions, Herr Ohlendorf. They may repeat to some extent a matter that has been covered, but I would like to clarify it in my own mind. Now you had, as I understand, 500 men under your command?

WITNESS OHLENDORF: Yes.

Q. And 200 of those were drivers?

A. Yes.

Q. Now, of the other 300, what were their specific duties?

A. First of all, more than 100 were guards. They included particularly reservists of the Security Police and Waffen SS. The remainder were executives of the State Police and Criminal Police. In other words, they were members of the police who had been trained in criminology. They were particularly trained for research and reconnaissance and they were particularly trained in combating Communist elements. Two or three percent of them were members of the SD who had been trained to accept and work on special reports for instance about Russian economy, administration, education and similar matters.

Q. Now, these men under your command segregated the so-called undesirable elements in the prisoner of war camps, did they not?

A. In my group this did not happen because in the area of the 11th Army there were no prisoner of war camps, no Stalags, where usually such segregation was carried out.

Q. How about Dulags?

A. Yes, but as far as I remember, only of a temporary nature. In other words, the prisoners stayed in those Dulags for only a very short period. At any rate, as far as I know, segregations were only made in the area of the 11th Army, by positive methods—

Q. I didn't get that.

A. In the area of the 11th Army, segregations were only made, as far as I know, in a positive sense. That is, Tartars, Armenians, and other people were segregated who, as Moslems, were willing to fight with the Germans and who volunteered for such duty.

Q. Now, as part of the liquidation program, certain commissars were turned over to you, or how did you get those commissars that were liquidated? From whom? From what source did they come?

A. Those commissars, according to the order, were brought in from the rear areas and were transferred by the appropriate offices who were responsible for maintaining order. So, for instance, the local commanders of the Security Divisions or the field commanders would arrest those people and, they were treated according to the attitude of the chief of the office. A part of them were probably handed over to the local command of the Security Police. In other cases, those Security Police commands, on their own initiative, might have screened such areas and arrested such persons who had no valid identity papers or who had been denounced to them by the local mayors as not being inhabitants of that particular area, or somebody else might come up and identify them as a commissar.

Q. Now, when they were so identified * * * Strike that. These commissars then were handed over to you by units of the army?

A. Yes, I just said by organizations or units of the army.

Q. Now, with reference to the collection of the Jews and other "undesirable elements"—how did you receive those?

A. In a varied manner. That is, according to whether it was a matter of finding such elements in a large built up area that is, a town, or according to whether such people lived in a sparsely occupied area and had to be arrested one by one. In large and densely populated areas the operation was usually that they would be put into a ghetto. That was carried out by the town commander, or they were centrally collected by public announcement issued by one of our Einsatzkommandos. They would, for instance, arrange with an elder of the Jewish community to make all Jews report. Those elders usually carried out the registration themselves. In the same way, the local commander would arrange for Jews being put into a ghetto. In a sparsely populated area, it was necessary to hunt out the individuals and that was carried out by units of the army or by units of the Einsatzkommando.

Q. Now, in a city, for example, where you had to search the houses, by whom was that done? By units of the army or were you able to do that yourself with your limited staff?

A. That, of course, again differed. Individual searches were probably made by units of the [Einsatzgruppe] command. However, if it was a matter of searching a large block of houses, as I remember them from Simferopol and Feodosiya in the Crimea, such searches were made by army units to whom experts of our Einsatzkommandos were detailed. That is, the search and the preliminary arrests were made by soldiers and then the interrogations and screening was carried out by trained experts.

Q. Now, when orders were issued for the collection of these so-called undesirable elements, by whom were those orders issued? By units or commanders of the army or by your own organization?

A. Your Honor, you will have to differentiate here. In principle the leaders of Kommandos, when they were informed of their object in Russia and when they were given their duties, were also given the order to arrest and kill such undesirable elements. So far there was no need for any special initiative order. It was rather so that the Einsatzkommandos knew that when they came to a town it was one of their duties to arrest and find such elements. Therefore, in agreement with the local officers they would carry out this duty. It was entirely different where this fundamental order was not concerned, but where, for special reasons, such screening operations were ordered, as for instance, in Simferopol or Feodosiya. In those towns, owing to the operational situation, there was some danger that by joining up of partisans in the town of Simferopol and Feodosiya with partisans in the Jaila Mountains—a threat might arise to the towns by explosives being placed or other sabotage acts. In such cases I should imagine the OQu. of the army and the commander of the town would order a special screening for such elements who were a danger to the town. After such an order the army would make available army units and the local Einsatzkommando would make available the experts in order to carry out the operation properly.

Q. Now, did you have any facilities for keeping prisoners under your command?

A. The local commands of course maintained small prisons where they were in a position to keep prisoners for a certain time, that is, at least until the interrogations had taken place; but they were not real prisons where a sentence could be served. They were only for investigation. People who had been arrested and who were still capable of military service would be transferred to the military authorities.

Q. Now, when these undesirable elements were selected what was the system carried out for their liquidation?

A. According to the uses of war they were shot.

Q. Well, were they shot in the immediate vicinity where they were collected, or were they removed to some distance?

A. No; they were shot outside the town limits in such a way that it was possible to eliminate publicity and public observers.

JUDGE HARDING: I didn't get the last answer.

(Answer repeated by interpreter.)

Q. How did they get there? Were they transported there, or were they marched there?

A. Usually they were transferred there by truck.

Q. Who furnished the trucks?

A. In large-scale executions part of the trucks were supplied by the army. Otherwise trucks were taken from where we could find them, for instance, from the so-called SD and assistance force or what the OQu. had available in that area.

Q. Did you receive assistance from the staff of the 11th Army in connection with these operations?

A. Yes.

Q. Did these members of the staff of the 11th Army who gave you this cooperation and assistance know what was to become of these people who had been segregated as undesirable?

A. With regard to the question of how much assistance we needed in such operations, we also had, of course, to discuss for which purpose we needed such assistance.

Q. In discussing that purpose you informed these staff officers that you wanted this assistance in order to carry out this liquidation?

A. The local Kommandofuehrer, for instance in Simferopol, would approach the OQu. and discuss the details with them.

Q. But you advised these officers, as I understand your testimony, that the purpose was to liquidate these undesirable elements. Were they informed of that fact?

A. In the case I just described it was the other way around because we were asked by the army to carry out the liquidation by a certain date. Therefore, the local Kommandofuehrer had to ask for assistance because he himself was not in a position to carry out the demanded liquidation by that demanded date with the means at his disposal.

Q. And the army requested these liquidations of you, as I understand your testimony. Now, did that include the Jews?

A. At a certain period, that is, I may add, for clarification, this member of the staff knew that the liquidation had been ordered and that it would be carried out at some period of time. Therefore, it was not an initiative order in that respect but he expected that the execution of such a liquidation operation was carried out by a certain date. And under the conditions prevailing then he knew that it was expected three or four months earlier than it would otherwise have taken place.

Q. Now, when there was a certain area where there were considered to be Jews and other undesirable elements, and you went to that place, did you go of your own volition or were you directed to go to that place?

A. I think I have explained that in my direct testimony, that the orders for any definite area, that is, into which area an Einsatzkommando had to march, were given by the army. In other words, the army determined which Kommando with what forces had to go into a definite area and how long they were to stay there.

Q. And was the purpose for which they were to go there understood as being that of collecting the Jews and other undesirable elements and liquidating them?

A. The purpose of our being sent there was not only for that reason. The original and main duty of the Kommandos was to establish security for a certain area. In other words, Kommandos were also sent into areas where there were no Jews; so it all depended as to whether areas which were of great importance to the army had to be occupied by such Kommandos for a special purpose, either for a certain period of time or permanently. And according to the Fuehrer decrees these Kommandos also carried out any liquidation of undesirable elements.

Q. Now, the elimination of the Jews was considered part of the security program, was it not?

A. Yes, yes. That was the reason given for the Fuehrer decree.

Q. So when you were sent into an area to liquidate those elements that were considered a menace to the security of the army, then you were to include in that group the Jews, if I understand your testimony?

A. Yes, this was part of our security program.

Q. Now, was this known to the officers of the army with whom you dealt?

A. The Ic offices and the Ic officers who were concerned with such orders knew that definitely.

Q. Now, when you were given these orders to go to certain places for the purpose of collecting these "undesirable elements" that were considered a menace to security, from what level were these commands given to you, what army level? Was it a division, a corps or the army itself?

A. No, they came from the army itself because the divisions received orders from the army that such or such Kommando was detailed to work with them and the divisions could not issue

marching orders to the Kommandos. The marching orders were received from the army.

Q. From the army itself, I understand.

A. Yes, by army headquarters [AOK].

Q. Did you receive such marching orders or such orders to go to these places while the defendant Woehler was chief of staff of the 11th Army?

A. I received such orders for my own staff as well as for Kommandos of my Einsatzgruppe.

Q. From the 11th Army while he was chief of staff, as I understand your testimony?

A. Yes.

Q. Now, were those orders, as to where you go, from the commander in chief himself or were they from the chief of staff?

A. They were by order of the army headquarters signed by the chief of staff.

JUDGE HARDING: I think that is all.

PRESIDING JUDGE YOUNG: Any further examination? You may be excused, Witness.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON ROQUES*

DIRECT EXAMINATION

* * * * *

DR. TIPP (counsel for defendant von Roques): I believe we can now leave the subject matter of partisan warfare. Let us now turn to the last chapter, the most serious charge raised against you by the prosecution. It concerns the commitment of Einsatzgruppen of the Security Police in your area. Concerning the activity of the Einsatzkommandos, the prosecution in section 82 of the indictment has stated that on the basis of an agreement of April 1941, between the Security Service and the armed forces, the Einsatzkommandos accompanied the German Armed Forces into the Occupied Eastern Territories, and within the area under the jurisdiction of the armed forces carried out operations with the purposes of exterminating inferior elements of the population who were for racial or political purposes undesirable. What can you tell us about this charge of the prosecution generally—what are your comments?

* Complete testimony is recorded in mimeographed transcript, 2-4, 7, and 8 June 1948, pp. 5119-5530.

DEFENDANT VON ROQUES: The prosecution asserts that the Einsatzkommandos operated in an area which was under the responsibility of the German Army. To refute that assertion, I can essentially refer to statements which I made at the beginning of my examination about the sphere of responsibility of the persons in whom so-called executive power was vested. What the prosecution asserts here is nothing else but an assertion that we military commanders in the East were responsible for actions committed by the Einsatzkommandos. We were supposed to be responsible because we were the holders of executive power in those areas. I believe that on the first day of my examination, the day before yesterday, I made it quite clear that we, particularly as far as the activity of the police in our area was concerned, were not the holders of executive power; particularly in the sector of police work, we were not vested with executive power. That, in my opinion, is made quite clear by the agreement of April 1941, submitted by the prosecution. Einsatzkommandos acted on their own responsibility and on their own authority in accordance with directives which never came to the knowledge and attention of the military commanders. For those actions which were carried out by the Einsatzkommandos, and I should like to stress, behind our backs and without our knowledge, nobody can hold us responsible. I believe I don't have to mention again the order of the High Command of the Army dated 28 April 1941 in all its details. If the prosecution goes on to assert that the Einsatzkommandos accompanied the German Armed Forces into the Russian territories in order to carry out their program of extermination, that cannot be refuted by reports which we have available here now, but that portion of the tasks of the Einsatzkommandos was not known to the armed forces. I myself did not have the slightest knowledge or information of that part of the work of the Security Service in Russia. I only knew what was apparent in the orders and in particular what was stated in the High Command of the Army order of 28 April 1941. In this order nothing is said about any plans or tasks of extermination. Not one word about such a plan is mentioned.

Q. You derived your knowledge, if I understand you correctly, about the tasks of the Einsatzkommandos from the order of the High Command of the Army dated 28 April 1941. I will have this order handed to you once again, General. It can be found in Document NOKW-2080, Prosecution Exhibit 847.* Will you please briefly tell the Tribunal, looking at this order, what you can glean from it about the tasks of the Security Service in the Russian Area?

* Reproduced above in this section.

A. According to this order, it was the task of the Einsatzkommandos to discover and fight elements hostile to the State and to the Reich. It was further their task to secure archives and to arrest particularly important individual persons. These were tasks, therefore, which generally, at least as far as I know, were tasks of security police in every state. I, therefore, had to regard the Security Service Kommandos as nothing but police forces which had to fulfill tasks of a security police nature. About the cruel actions and atrocities which were committed at that time by the Security Service, I mentioned previously I did not have the slightest knowledge.

Q. In a series of other orders which we have already discussed, General, it is mentioned that suspect civilians were to be turned over to the Security Service. Thus it is stated, for instance, in the Commissar Order, which is Document NOKW-1076, Prosecution Exhibit 57,* that in the rear area of the army group civilian commissars who were apprehended because of their doubtful behavior were to be turned over to the Security Service. In other orders also turning over to the Security Service of suspect civilians is mentioned in similar terms. Now why, General, was it ordered to hand over such suspect civilians to the Security Service?

A. The turning over of such elements to the Security Service according to the High Command of the Army order of 28 April 1941, was one of the tasks of the Secret Field Police and the Security Service, namely to take care of elements hostile to the State and the Reich. I therefore, regarded these Kommandos as security police forces which had to deal with the political screening and supervision of the civilian population. It was a matter of course for me, therefore, that former functionaries of the Soviet State who at first were to be left unmolested, whenever their attitude or conduct was suspicious, were to be turned over to the Einsatzkommandos. It was my opinion that the Security Police were trained police officers who had the necessary experience, particularly in the sphere of police security work. I assumed that they would be able to decide whether political offenses liable to punishment were concerned or not. For the rest, a cooperation with the military counterintelligence had been ordered. I referred yesterday to the demarkation of the spheres of work of the Security Service Kommandos as the organs supervising the civilian population, and of the Secret Field Police as the organs supervising the activities of the troops. I assumed, therefore, and I had no cause to assume anything else, that the Security Police were in charge of the political screening and the screening as to activity

* Document reproduced above in section A 2.

hostile to the State, whereas the Secret Field Police were called upon to protect the troops directly. This is how I interpret the orders which provide for a turning over of suspect civilians to the Security Police.

Q. General, did you pass this opinion of yours about the tasks of these Security Police kommandos, on to your subordinate troops?

A. Yes. I would like to refer to two orders which the prosecution has submitted in this trial.

Q. For this purpose, I have handed to you, General, Document NOKW-2597, Prosecution Exhibit 923. This document contains an order of the Commander of the Rear Area of Army Group South dated 14 July 1941. Is that the order to which you are having reference, General?

A. Yes, it is the order I mean. I have mentioned before that a Higher SS and Police Leader was attached to me who fulfilled the tasks of the representative of the Chief of the Security Police and the Security Service in my area. After having taken over the army group rear area I was briefly informed by this Higher SS and Police Leader, SS Lieutenant General Jeckeln, about the commitment of an Einsatzkommando in my area. That is also contained in my order. Elements of this Einsatzkommando were stationed in various localities, partly in areas in front of my area, that is in the army rear areas of the 17th and the 6th Armies. It was described to be the tasks of these Kommandos, in accordance with this order—in section III-B—that, as Security Police they were to comb through the areas surrounding their place of commitment in order to apprehend saboteurs; that is the same as provided in order of the High Command of the Army.

Q. In section III-C of this order you state that the Higher SS and Police Leader had instructed the Einsatzkommandos to contact the divisional commanders and to inform them about intended operations or, at least, to inform them subsequently. Was that done, General?

A. I cannot remember that any reports of these Kommandos were made during this period of time. Later on, such reports occasionally arrived; however, they dealt exclusively with screening by the Security Police and with antipartisan fighting.

Q. You have already described the sphere of tasks of the Security Service Kommandos as it appeared to you at the time, General. Will you now please tell the Tribunal what your opinion was then of the tasks of the Higher SS and Police Leader who was at that time attached to you?

A. I knew that the Higher SS and Police Leader was in charge of the Einsatzkommandos; that was one part of his activity. On the other hand, I knew that units of the regular police were also under his command; these he committed independently on his own initiative during partisan operations. I heard nothing of any activity of the units of the Higher SS and Police Leader which might have concerned the mass executions of Jews, as I have already stated.

Q. Did the Higher SS and Police Leader occasionally report to your agency, General?

A. Such reports were mentioned a few times as enclosures to the 10-day reports of my agency; however, only one report of this type has been submitted here.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. HORLIK-HOCHWALD: You have already told the Tribunal that you did not know anything about the tasks of the Higher SS and Police Leader concerning the execution of Jews. Do you remember having issued an order yourself or your office, where the execution of Jews by the Higher SS and Police Leader is expressly mentioned?

DEFENDANT VON ROQUES: No.

Q. You do not remember it, or you never issued such an order.

A. No, I cannot recall it.

Q. You never issued the order? I would like to show you the order. This is NOKW-2594, which I offer as Prosecution Exhibit 1575.

PRESIDING JUDGE YOUNG: It will be admitted on cross-examination.

MR. HORLIK-HOCHWALD: Do you remember this order of 1 September 1941 now?

DEFENDANT VON ROQUES: No, I don't recall it.

Q. It is true that this document originates from you?

A. No, that is not true either. The signature on it ought to show, but I don't know whose it is.

Q. Will you tell the Tribunal who Major Geissler is, who certified the true copy?

A. Officer Geissler was the First General Staff Officer, I believe, of the 444th Security Division. I am not quite sure, however.

Q. If you look at the heading, at the letter head, isn't it said, "The Commander of Rear Area Army Group South"?

A. Yes, that is what it says here, I see that.

Q. Will you please kindly turn to paragraph 3? There it is said, "Executive measures against certain parts of the population, in particular against Jews are expressly reserved to the forces of the Higher SS and Police Leader, especially in those districts which have already been pacified." Do you want to tell me that you did not know that executions of Jews were the task of the Higher SS and Police Leader?

A. No, I didn't know it.

Q. In spite of the fact that the statement appears in the order? All right, let's go on. "The troops themselves will liquidate on the spot only such indigenous persons as have been proved or are suspected of having committed hostile acts, and this only in compliance with orders of officers". Do you want to change, in the face of this sentence, your testimony that nobody was killed on suspicion?

A. I don't want to change it.

Q. Let's go on. "Collective measures may be ordered only by an officer with at least the rank of battalion commander. No doubts can be admitted in this respect. Any arbitrary shooting of natives including Jews by individual soldiers and any participation in executive measures of the Senior SS and Police Leader must be considered as insubordination and punished by at least disciplinary measures, unless court procedure is required". Would you tell the Tribunal what the highest punishment was which could be applied on the basis of insubordination? I mean of disciplinary measures, I am sorry.

A. I can't tell you that at the moment, I would need to see the disciplinary penal code.

Q. Will you tell the Tribunal what it is?

A. A very lengthy prison term, at any rate, lasting for many months perhaps, approximately like that, I don't know exactly. I don't want to commit myself because I don't know it myself.

Q. Do you consider a punishment of arrest for 60 days adequate for the arbitrary shooting of indigenous persons, including Jews?

A. No.

Q. Nevertheless, you have so ordered, haven't you?

A. Well, I didn't sign the order. I see it here for the first time.

Q. But the order comes from your headquarters, does it?

A. Well, at least that is what it says, although I have my doubts as to whether it was correct.

Q. You would say that Major Geissler would certify something which is a falsification?

A. At any rate, I myself, repudiate that order.

Q. Witness, do you want to change your testimony and admit that you knew and everybody else in your staff knew that the Higher SS and Police Leader was in the rear area of Army Group South for no other reason than to exterminate the Jews?

A. I didn't know anything about that, not one word of it. It isn't revealed even in this order.

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REDIRECT EXAMINATION

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DR. TIPP: The next document which I should like to discuss with you, is Exhibit 1575, introduced this morning by the prosecution. It is NOKW-2594. It is the copy of an order dated 1 September 1941, which bears the heading, "The Commander of the Rear Area of Army Group South". You saw the photostatic copy this morning, General. Would you please tell the Court whether this order bears your signature, either typewritten or handwritten?

DEFENDANT VON ROQUES: This order does not bear my signature either in handwriting or typewritten. It merely says, "Signed: Signature".

Q. The copy is certified by a certain Major Geissler, General. Can you tell us who Major Geissler was?

A. Major Geissler, as I stated this morning was the First General Staff Officer of the 444th Security Division, to the best of my knowledge.

Q. Did Major Geissler know your signature?

A. Yes, of course, he did.

Q. One further question about this order: underneath the heading, the order shows a war diary number, "War Diary No. 3/41, Secret". Before that it says "AZ III". Can you tell the Court what AZ III means?

A. That is to say, department III. Department III in all agencies of the armed forces is the judicial department. This order therefore emanated from a senior judge advocate. It is striking that on 1 September they have only got to War Diary No. 3 "Secret". In my agency with the Ia or whoever was concerned, that would not have been possible. The number would be 300 or something like that. This alone is proof of the fact that it was a matter from the judicial department. The signature probably would have read "signed Thomas". He was the senior judge advocate, the highest judge in my whole area of command. The whole order could only have been formulated by a judge.

Q. It is your opinion and contention, therefore, if I understand you correctly, General, that under no circumstances could that order have been signed by you?

A. Under no circumstances.

Q. Now, about the contents of the order, General. In this order there is some mention of executive measures against certain parts of the population, in particular, as is stated here, against Jews. Did this order refer then to mass executions of Jews which, according to the documents of the prosecution, were in fact continually carried out around that time by units of the Higher SS and Police Leader? If not, to what kind of executive measures did this order refer?

A. The order of course, referred only to those executive measures which the Security Service was carrying out by virtue of their lawful Security Police missions.

Q. One more question, General, about this subject matter—further down it is stated in this order that any arbitrary shootings of indigenous population by individual soldiers is to be considered as insubordination and to be punished, at least by disciplinary measures, unless court proceedings are necessary. If I understood counsel for the prosecution correctly, when he questioned you, he held the opinion that, in accordance with this text, soldiers who without any good reason shot members of the indigenous population were given disciplinary punishment. Perhaps you can briefly explain to the Court, General, what this portion of the order refers to and how it should be interpreted?

A. This portion of the order does not refer to the shootings as such, of whether carried out with or without reason. It refers to the fact that an individual soldier who shot anybody at all, irrespective of whether the person shot was a criminal or not, was forbidden to do that. This soldier would receive disciplinary punishment for, let us say, disobeying a service regulation. However,

if it turned out that he shot somebody who should not have been shot at all, because the victim had not committed any crime, then, of course the soldier perpetrating this illicit act would be put before a court and punished. Perhaps he would receive disciplinary punishment in addition because he had disobeyed an order. That is how it ought to be understood.

Q. I don't believe you made it quite clear yet, General; let me ask a few specific questions about it. According to this order, what is provided as to who may order shootings?

A. Only an officer with at least the rank of a battalion commander.

Q. I believe, General, you are reading the wrong line of the document.

A. No, that is what it says here.

Q. Battalion commander is mentioned here in connection with collective measure.

A. I am sorry. I can't read it. Yes, I see it now, "collective measures".

Q. Who then had to order a shooting?

A. An officer.

Q. If an enlisted man, therefore, shot somebody without the order of an officer, what happened then?

A. Then he would be punished for disobedience of existing service regulations. He would receive disciplinary punishment.

Q. And this service regulation which he disobeyed, was the order that he must not carry out arbitrary shootings, is that correct?

A. Yes.

Q. If it turned out now that he had been justified in shooting somebody because, for instance, the victim acted as a partisan, how would the soldier then be treated?

A. The fact still remains that the soldier would receive punishment for disobeying a service regulation.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT OTTO WOEHLER*

DIRECT EXAMINATION

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* Complete testimony is recorded in mimeographed transcript, 10, 11, 14-17 June 1948, pp. 5675-6083.

DR. RAUSCHENBACH (counsel for defendant Woehler) : Now let us deal with that sphere which demands a lot of attention, that is the so-called extermination of the Jews. Under count 3 of the indictment, to which this particular subject matter belongs, a number of other documents should also be dealt with, which deal with the extermination or maltreatment of parts of the civilian population. We will refer to these documents at a later date and we will at the moment discuss the relation between the 11th Army and the Security Service and also the basic orders in this connection. First of all, did you know the so-called Wagner-Heydrich agreement when you were chief of staff of the 11th Army?

DEFENDANT WOEHLE: No. I only heard in Nuernberg that such an agreement allegedly existed between Heydrich and Wagner.

Q. Now who were Heydrich and Wagner.

A. Heydrich was the Chief of the Security Police and as was discovered later also the Chief of the Security Service. Wagner was Generalquartiermeister of the German Army who lost his life, as a consequence of the 20 July anti-Hitler plot. It was only here in Nuernberg that I learned that this so-called Heydrich-Wagner agreement allegedly provided for the commitment of the Security Service. I still remember from the year 1946, that a copy of this so-called agreement was searched for and, as far as I know, this search proved to be vain.

Q. An order from the High Command of the Army has been introduced by the prosecution, dated 28 April 1941 which, according to the assertions of the prosecution, is in line with the so-called Heydrich-Wagner agreement, that is Document NOKW-2080, Prosecution Exhibit 847. Now in 1941, when you were chief of general staff with the 11th Army, did you receive that order?

A. I cannot remember that, but it is possible. If I did not receive the order at that time, at any rate I was informed of its substance, probably through an oral report of the Ic.

Q. Does this order from the High Command of the Army reveal the connection between the High Command of the Army and the Chief of the Security Police and the Security Service?

A. Yes, that a connection existed between these two agencies is recognizable from the document. The second paragraph starts with the words "with the agreement of the Chief of the Security Police, etc., etc., etc."

Q. At that time was there no reason for consternation on your part when you heard about the order or at least about its contents,

namely, that a collaboration with the Security Service was provided?

A. No, that was not the case, if only for the reason that in this order in two passages reference is made to old principles of collaboration between the Secret State Police [Gestapo] and the counterintelligence agencies of the armed forces and/or the Secret Field Police. This old agreement was dated 1 January 1937. We have, therefore, a peace agreement probably concluded on our behalf by Admiral Canaris which was extended through this new agreement to cover the duration of the Eastern Campaign.

Q. Did you ever serve in the counterintelligence service, General?

A. No, I have never been a counterintelligence officer. My general staff career was exclusively concerned with the duties of the Ia and chief of staff. Even before I was transferred into the general staff, I never served in the counterintelligence service.

Q. Couldn't you gather from this order what tasks were to be assigned to the Security Service in the army area? Those tasks are mentioned in section I, subdivided into army rear area and army group rear area.

A. Yes, that's right.

Q. Let me ask you a preliminary question. The combat area isn't even mentioned?

A. No, the combat area isn't mentioned, only the army rear area. Also the army group rear area. I knew, however, that the Security Service, in order to fulfill the tasks listed in this order, was to be committed in the operational area of the army. Also I knew that in actual fact the Security Service had been committed either on the very day war broke out or a few days later. I can no longer recall the date today.

Q. Was this order protected by special secrecy provisions?

A. This order was issued by the High Command of the Army with the classification "secret". One cannot say, therefore, that it was very strictly protected by security provisions, because otherwise it would have been issued with the classification of either "top secret" or as "top secret—matter for chiefs". Therefore, because of this comparative lack of strict secrecy, one could not expect that the author of this order desired the circle of those who knew about the order or who dealt with the order to be kept particularly small in this particular case. Finally, I might state that it has only struck me now that this order is dated April 1941, which is strikingly early. This also does not seem to me to indicate that very great secrecy surrounded this order.

Q. What can you tell us about the subordination between the armed forces and the Security Service with the 11th Army, practically speaking?

A. I can be brief in answering that question because it is clearly evident from the order what the relation was. The departmental instructions came from the Chief of the Security Police and the Security Service. The disciplinary and judicial subordination came under the Chief of the Security Police and the Security Service. In other words, what the Security Service was to do and what it was not to do was decided by the Chief of the Security Police and the Security Service. The execution of the tasks of the Security Service was done on their own responsibility and outside of the competency of the troops. I believe it is hardly possible in a military order to express the independence of a police unit more clearly than has been done in this order.

Q. Wasn't at least a partial subordination under the army provided?

A. A certain subordination to the army had been provided in service matters of a completely secondary nature, such as marching, supply, quarters. These terms of subordination cannot really be held to argue a genuine subordination to the German Army, to the 11th Army in this instance. I cannot recall either that Einsatzkommando D or one of the four Einsatzgruppen—

Q. You mean the other way around?

A. Yes, the other way around, that Einsatzgruppe D or one of the four Einsatzkommandos were ever listed in the table of organization of the 11th Army, or in the schedule of the staff of the 11th Army. I want to repeat that. Marching, supply, and accommodations were under the jurisdiction of the German Army as far as the Security Service was concerned.

Q. According to section Ia of the order, the commander in chief could exclude the commitment of Sonderkommandos under certain conditions. Did you know that at the time, too?

A. I am quite certain that I knew it. I could not imagine that this passage could have been over-looked by me when I read the document or that the Ic would have omitted reporting it to me.

Q. How could the commander in chief avail himself of this passage if he wanted to prevent the commitment of Einsatzkommandos?

A. In my opinion he couldn't make any or hardly any use of it, because if one regards this limitation on the independence of the Security Service as a brake, then I can only say that the brake

is useless, because the argument behind this sentence is illogical. Disturbance of operation in the army rear area was the essential condition for excluding the Security Service from parts of the army area. Every soldier knows, however, that no operations are conducted in the army rear area. At any rate, I cannot imagine it. Operations are conducted at the front, where the fighting takes place. You carry on operations in the combat area but not in the army rear area, even less so, of course, in the rear area of the army group. Therefore, this brake is worn out. You can argue, of course, that war was going on in the army rear area. There was the band warfare which pursuant to the Stalin order developed as early as July in some of the army areas. So there were operations in these areas. But it is my opinion that that was not a proper operation and, furthermore, if anybody had anticipated the existence of such band [partisan] warfare at the time when this order was issued in April 1941, the demand would have been illogical, the demand to remove the Gestapo from this band warfare for operational reasons.

Q. When you say Gestapo, you mean the Security Service?

A. Yes, that's right, because it is particularly in these band infested areas that you need police reconnaissance and police security. It is my opinion, therefore, that the right to exclude these units, the right vested in the commander in chief, was a very weak authority if it could have had any effect at all. I am now referring to the year 1941 up until spring 1942.

Q. Did your commander with the 11th Army use this veto right?

A. No.

Q. In your opinion what would have been the result of such an application of the veto right; what would have happened if one of your commanders had objected, always with the premise that this commander had heard something about the liquidation of Jews?

A. Of course, I can only answer this question with this premise and on the basis of my knowledge of today. With these conditions, my answer is—this liquidation might have been stopped for a very few days by virtue of an order from the Commander of the Army. In this comparatively short time, however, Himmler would have seen to it, and Hitler would have so ordered, that this disturbing element in the person of the commander of the army, was replaced, or by virtue of a special Fuehrer Order, the substance of this order from the High Command of the Army would have been ordered in writing for the first time as well as the interpretation to be placed on it.

Q. Very well. In accordance with this order, the Security Service was obliged to inform the commander of the army of the instructions which it had received from the Chief of the Security Service and the Security Police. For this reason alone, didn't the commander of the army have to learn that these Security Service Einsatzkommandos had totally different tasks from those provided in the order?

A. It is correct that the Security Service was instructed to inform the commander of the army of its directives and missions. I cannot dispute either that the Security Service adhered to these instructions within the scope of those tasks which, for reasons of brevity, I want to term lawful tasks, that is, those tasks which had no connection with the execution of Jews. We did have a liaison, to which I will refer later, which took care of the Security Service information between the Security Service and the armed forces concerning these spheres, starting with the archives, which the Security Service had to screen, and ending with the executive. I do deny, however, that the Security Service officially informed the commander of the army or any other officer at the army headquarters of this other mission and, as I now know, the Security Service wasn't even permitted to do this. By other missions, I mean the persecution of Jews and gypsies and similar groups of people, who for racial reasons were undesirable to the Security Service. As far as I know, the Security Service never informed the commander of the army about them. Since 1946, I have been endeavoring to get to the bottom of these problems, and I can only say one thing: he who does not recognize the Janus face of the Security Service does not recognize its true character. We saw the good side of this Janus face, but not the other side.

Q. General, what did you mean when you referred earlier to "executive" measures exercised by the Security Service?

A. To my knowledge "executive" is a term denoting police competency. It refers to confiscations, arrests, searches, that is, the investigations and prosecution of crimes of every shape and form.

Q. Does itself, apply to the term "executive", that is execution as well?

A. No, killing was not included. This term "execution" which was also only created by the Security Service, was also by no means included under this term, unless, in some individual cases, a perpetrator is convicted of a crime which is punishable by death.

Q. Was the cooperation between the Security Service and the 11th Army regulated in the same manner as provided by the order of the High Command of the Army?

A. As far as I can recall, this cooperation was so arranged and also carried out approximately in the same manner as provided in the order from the High Command of the Army.

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CROSS-EXAMINATION

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MR. HORLIK-HOCHWALD: Witness, before the recess I put to you Document NOKW-3453 which is Prosecution Exhibit 1605. Have you looked this document over in the midday recess?

DEFENDANT WOehler: Yes, I have.

MR. HORLIK-HOCHWALD: If Your Honors please, this is a compilation of different orders and reports, some of which are also contained in other documents offered by the prosecution in its case in chief; but in order to have the picture complete, I have also reproduced these documents in Document NOKW-3453 which is presently before the Tribunal. Will you look into the first document which is an order of yours of 3 July 1941? This document is signed by you, is it not?

DEFENDANT WOehler: Yes.

Q. And I draw your attention to the first paragraph where it is said, "In order to secure important captured political material and in order to round up politically unreliable elements in Beltsy, a Sonderkommando of the Security Police, consisting of 50 executive officials in addition to auxiliary personnel, will be attached to the XXX Army Corps".

So, you knew that a Sonderkommando was supposed to operate in Beltsy in order to round up politically unreliable elements?

A. It is to be assumed, although this is a draft of the order. But I cannot deny that the order was issued and that this is a fair copy.

Q. I take it from your testimony that you heard that Jews had been killed in Beltsy. At the same time you knew that the Sonderkommando of Einsatzgruppe D was operating there. Didn't you become suspicious that possibly the activity of the Sonderkommando might have something to do with the killing of the Jews in Beltsy?

A. No, nor do I know the chronological connection between these Rumanian troop elements and the commitment of this Sonderkommando for the rounding-up of politically unreliable elements and of important captured political material. I do recall that the prosecution document which deals with the Rumanian excesses in

the city of Beltsy states that, in fact, only Rumanian outrages were involved, but no outrages on the part of the Security Service.

Q. Will you look further into the document, and in the third paragraph there it is said that, "The Sonderkommando performs its work by order of the Chief of the Security Police on its responsibility. It will report all the measures it takes to the 11th Army, Section Ic/Counterintelligence officer through the Ic of the XXX Army Corps".

It is a fact, is it not, that the Security Service reported through this official channel to the 11th Army?

A. That is to be assumed, as far as important captured political objects and politically unreliable elements were involved.

Q. And will you look at the second to the last paragraph. There it says, "The Sonderkommando will report to the Ic of the XXX Army Corps in Stanca, north of Iasi, in the course of 4 July 1941. The route of march will be—Piatra Neamt, Roman, Targul Frumos, Iasi, Stanca".

It is clear from this document, is it not, that you were always perfectly well informed of where these Sonderkommandos were to operate, or were to march, at the end where they were to be garrisoned, and to whom they were to be attached; is that right?

A. That is only partially correct. This decree which was issued at the beginning of the Russian war on 3 July 1941, does not prove that I always knew of it. I understand that this was the first distribution of Sonderkommandos, in this case to the XXX Army Corps, but subsequently I occasionally learned where the individual Sonderkommandos were operating either by an individual report or by an oral report made by the Ic or the liaison officer about the splitting up of these individual units.

Q. But, as a matter of fact, this Sonderkommando was sent to Beltsy by this order, is that right?

A. Yes, it was attached to the corps headquarters. Whether it was already there or would only proceed there, I don't know.

Q. All right, then, come to the next part which is part two of the original. This is a chart. "Liaison officer of Einsatzgruppe D of the Security Police attached to 11th Army—Ic/Counterintelligence officer, SS Major Gmeiner". That was the Security Service officer who was attached as liaison to the AO (counterintelligence officer) of the 11th Army, is that correct?

A. I cannot recall the name. I only recall the name of Seibert mentioned this morning; I once met Seibert in the course of the summer or fall; but I cannot contest that Gmeiner did hold the position at the time. I think it is possible that an SS major with

this name was attached to the Ic/counterintelligence officer at the time.

Q. But you knew that there was a liaison officer of the Security Service who was always with the 11th Army, I mean, as long as you were there as chief of staff?

A. You mean that he was there every day, that he was there continuously? I did not know that. But I only thought it quite natural that a liaison officer at the very least frequently contacted the Ic/counterintelligence officer, because the two had to cooperate in the counterintelligence field and it was a military usage in such cases for a liaison officer to be detailed either constantly or at certain intervals.

Q. Let's look now into the chart itself. There it is said that Einsatzkommando 10a was with the XXX Army Corps, 10b with the 3d Rumanian Army, 11a with the 4th Rumanian Army, and Einsatzkommandos 11b and 12 are reported in Piatra Neamt. The chart itself is dated 9 July. So, am I mistaken in assuming that, with the exception of the Einsatzkommando 11a which was attached to the 4th Rumanian Army, all other Einsatzkommandos in the headquarters were in close contact geographically with the 11th Army?

A. Whether this chart is dated 9 July 1941, as you say, I do not know, because, according to my document, they are two separate pages and there is no way to tell whether one page is connected with the other. You cannot even tell it by pagination or by the size, because one letter is printed one way, as I am now pointing out to you, and the other is printed the other way around. Therefore, I cannot state for what period of time this chart was valid, but I cannot contest, however, that for instance Einsatzgruppe D was in Piatra Neamt at the beginning of the Russian war, at least in the very first days.

Q. Witness, all these documents are in one folder, so the first document I handed to you is dated 3 July 1941, and the third document on page 3, is dated 9 July 1941, so we can presume then, can we not, that the chart is written or came into the 11th Army in the time between 3-9 July, is that right?

A. Sir, you can always arrange your files in the way in which you wish to have them. Now, this chart does not mention an enclosure, the communication which is the only one bearing the date of 9 July, as far as I can see, does not contain a reference to an enclosure either. Hence, I really cannot see any connection between this chart and the communication dated 9 July, however much I try. Perhaps you can help me, but so far I haven't found it and during noon, of course, I had a meal also. I didn't have time.

Q. Will you let me have the photostat for a moment. Possibly I can find out.

A. Certainly, perhaps I can do so myself, if you will just wait a minute.

Q. Will you just look at the right corner; there are some initials and also a date, the right corner of the chart, doesn't it say 9-7-41?

A. Yes.

Q. Which means 9 July 1941?

A. Yes, it may be either 4 or 9, yes, I think it may be 9. I didn't see that previously, and I beg your pardon.

Q. The next document is a report of 9 July from Chernovitsy. The report is from Einsatzkommando 10b to the Ic of Army Group South through the official channel, and if you look at the end, there you will see that this copy was certified by Major Riesen, who was the AO [counterintelligence officer] of the 11th Army, is that correct?

A. Yes.

Q. So I do presume that this "through the official channel" means that this report went through the 11th Army to Army Group South is that right? Is that correct?

A. Well, it is possible. I cannot assert it as a fact, because Chernovitsy, as I testified previously, was in Rumanian territory and it was probably directed to Army Group South, because it was on Rumanian territory. It is quite clear from the photostat that Major Riesen signed it, and that he had knowledge of it, but I didn't.

Q. In this document it is said that on 6 July the Einsatzkommando reached Chernovitsy; then I would direct your attention to the second paragraph, "On the basis of available wanted-lists and newly compiled records, the arrests of Jews and Communists began on the 7th of this month. On the 8th of this month, a large scale operation was conducted, in the course of which it was possible to catch all the leading Jewish elements with only a few exceptions. On the following day, about 100 Jewish communists were shot by the Kommando. Counting also the execution of Jews carried out by the Rumanian armed forces and police, a total of over 500 Jews were shot in the course of the 8th and 9th of this month. A detachment was sent to "Hotin"—and I do think this Hotin and Chodin is the same place—"to screen that place".

Would Major Riesen report to you that a Sonderkommando of Einsatzgruppe D arrested all leading Jewish elements and exe-

cuted or exterminated on 8 July, 100 Jewish Communists in Chernovitsy?

A. I cannot recall it.

Q. If you would look now at the next document, which is dated 14 July on page 4 of the original—Your Honors [addressing the Tribunal], page 3 of the document before you—which is again an order signed by you, is that correct?

A. Yes, the other one had not been signed by me, the one you just referred to, but this is signed by me and bears the inscription, “signed on the draft, Woehler”, and then Riesen signed it.

Q. Paragraph 1 says, “After it has carried out its assignments in Chernovitsy, Sonderkommando 10b will return to the Einsatzgruppe in about 3 or 4 days. It will be billeted in Chernovitsy”. That is the reason why I have been asking you whether you knew what this Sonderkommando was doing in Chernovitsy, as you yourself spoke here about its assignments in Chernovitsy.

A. Yes.

Q. We have in the report of 9 July, what the assignments consisted of. I just wonder that you never informed yourself about the fact of what these assignments were.

A. According to my recollection, we didn't learn anything about the fact that this concerned executions of Jews, and apparently by the term, “After the execution of their tasks”, I understood general Security Police tasks. At any rate, I cannot recall anything else.

Q. The same thing is true about Beltsy. In paragraph 2, you see “Einsatzkommando 10a will continue to be subordinated to the XXX Army Corps for marching, billets, and rations. After it has carried out its assignments in Beltsy, it will be at the disposal of the 11th Army, from which it will receive instructions in time for further commitments”.

It is clear, is it not then Witness, that the commitments of the units of Einsatzkommando D were ordered by the 11th Army? Is that the sense of the sentence, Witness?

A. Well, the assignments of this Einsatzkommando in Beltsy are mentioned in the first paragraph of the previous order, dated 3 July, where it says that political materials captured are to be secured and that politically unreliable elements are to be rounded up. Now the assignment which was given them on 3 July 1941, had apparently been completed according to the new order dated 14 July 1941.

Q. But according to this sentence, the further commitments

of Einsatzkommando 10a were also given to this unit by the 11th Army.

A. Well, it says here that it was to remain at the disposal of the Army Command in Beltsy and would receive instructions from the Army Command in time for further commitments. That is the text in summary.

Q. Let us go to the next paragraph, paragraph 3, "Einsatzkommando 11a is subordinated to the LIV Army Corps, in accordance with 11th Army Ic/counterintelligence officer No. 91/41, Top Secret, of 13 July 1941, for marching, billets, and rations in order to carry out its assignment in Kishinev.

It was known then and approved then by the 11th Army that this Einsatzkommando would be active in Kishinev, is that correct?

A. Yes, that is right, according to this order.

Q. I don't want to read the fourth paragraph, which orders the Einsatzgruppe D to stay in Piatra Neamt. I only want to ask you, is it not perfectly clear from this document that the commitments as to where the different units of the Einsatzgruppe D had to operate were given by the 11th Army, and in this special case here, by an order signed by you?

A. That is the case, and the reason is that this was during the very first day of the Russian war where one had to order certain matters in detail which subsequently was not necessary. It was only on 1 July that we of the 11th Army mounted our attack, not on 22 June, when the war started, and in that case, you have to order a good many things so that matters can be properly started off.

Q. So, Witness, why did you never concern yourself with the question of what the Security Service people were doing and how they carried out the job, when you sent them there to these places?

A. Well, their assignments, as has been mentioned so often here, were the Security Police measures against saboteurs, and so forth.

Q. Have you ever checked how they carried out these missions in the different places where you sent them?

A. I do not believe so.

Q. Will you turn now to page 6 of the original, which is an order of yours, dated 22 July 1941. There it is stated that "Einsatzgruppe D, except Sonderkommando 11a and 10a, is to be

moved from Piatra Neamt to Iasi. Billets will be furnished by the post commander of Iasi”.

So it is correct, is it not, that the 11th Army billeted those people, or at least made arrangements for their billeting?

A. The Einsatzgruppe learned that they would be assigned quarters by the post commander.

Q. “The Einsatzgruppe will continue to be subordinated to the 11th Army for billets on the march and for rations”.

I do believe, Witness, you have testified that Iasi, being Rumanian territory, was not in the area of the 11th Army, is that right?

A. Iasi was not a combat area at all. The combat area only started to the east of the River Prut, and Iasi was Rumanian zone of interior territory, but this, of course did not prevent the Army Command from entering Iasi and being accommodated there, as is evident from prosecution documents.

Q. The point I wanted to make was a different one; if then, Einsatzgruppe D operated in Iasi, it was for the reason that they were sent there by you, Witness, is that right, according to this order?

A. They were not sent to Iasi in order to be committed there. They were sent there in order to get billets. There is a difference. Now I interpret it as meaning that we wanted to wait until, for instance, Bessarabia was occupied and the Ukraine entered, that is Russian territory proper. I cannot state the actual reason for it. At any rate, no commitment is referred to here, merely the assignment of billets in Iasi.

Q. There is, for instance, in the second paragraph a remark that Sonderkommando 11b was to be employed in the area of the 2d Rumanian Army for the tasks which were already frequently mentioned, and there it is said in Izmail, Reni, Bolgrad, Akkerman, and Odessa. So, if Sonderkommando 11b went to those places, all of which undoubtedly were not in the area of the 11th Army, the 11th Army sent them there, is that right?

A. Well, that was probably done pursuant to some instructions from the army group which attached importance to having a Sonderkommando taking charge of the Security Police tasks in the Rumanian Army.

Q. But the order for that came from you, did it not?

A. It was issued by the 11th Army, but I do find in this order that there is no office number nor file number on the letter head. It merely says Ic/counterintelligence officer, but the file number proper is lacking nor is it contained in the photostatic copy.

Q. Witness, this document originates from the file which the counterintelligence officer kept on the Security Service, and if you want I can show you the file. Will you be good enough to hand the witness the file? Would, in such a file which is the original file of the counterintelligence officer of the 11th Army on the Security Service, a document appear which was not used or which was just incorrect?

A. No, I never said that. I merely said it struck me that there was no file number and in fact, it is striking that it isn't contained in this document either. I don't want to say that it proves that it was never issued, but it certainly is a striking fact.

Q. Let us go to page 9.

PRESIDING JUDGE YOUNG: He didn't say whether he signed it.

MR. HORLIK-HOCHWALD: Did you sign the order, Witness?

I am sorry, Your Honor.

DEFENDANT WOEHLE: I signed it as chief of staff.

Q. Let us go to page 9 of the original. This is another order to Einsatzgruppe D and I only want to ask you in regard to this order whether you have signed this order too?

A. Yes, I signed it.

Q. The next document I think is known to you. It is a report of 29 August 1941, on page 10 of the original page 6 of the document before you, Your Honors—concerning the shooting of the alleged female commissar Subenko on 27 August 1941. The report itself is dated 23 September, and I think if you will look in the upper right hand corner, it is initialed by your Ic and your counterintelligence officers, Majors Ranck and Riesen, is that right?

A. Yes, but my initial does not appear.

Q. I do not remember having said that. I only wanted to ask you whether one of these two gentlemen ever reported to you on those executions?

A. I cannot recall it. The area in which this occurred was at that time Rumanian territory in the region of Odessa on the Black Sea.

Q. The next document on page 11 of the original, which is a report of Ohlendorf to the 11th Army and, if I am not mistaken, is initialed by you, is dated 29 September; it is initialed by you, is that correct?

A. I will have to check it first. I didn't see it.

Q. If you look at page 11 on the right hand side, top part, right hand side, there is a "W", is there not?

A. Yes, it possibly is the letter "W". However, in the recess I looked at the enclosures pertaining to this document, and they show quite clearly what Ohlendorf reports on. In other words, the enclosure refers to Ohlendorf's discussion in Askaniya Nova, and I would ask for permission to read the first paragraph.

Q. Go ahead.

A. "On the 15th of September I arrived in Askaniya Nova at the estate, which was state property, and reported to the owner of the estate. This estate and its appurtenances located outside the village numbered 3,500 inhabitants. The majority of the population were deported by the Russians before the arrival of the German troops." This is followed by statements relating exclusively to animals which were kept in the local zoo.

Q. Will you look into page 13 of the original. This is the cover-letter to the report on the shootings in Genitchek. Some documents on this event, as a matter of fact, have been submitted by the Prosecution in its presentation of evidence. The only question I would ask you is, is the document initialed by Majors Riesen and Ranck, and did these gentlemen report to you about the shootings?

A. I cannot recall it.

Q. Please go over to page 17 of the original. This, too, is a document which you know. It is the commitment order for an action which was to be carried out by Sonderkommando 11b, and there it is said the forces—it is on page 17 of the original—"The forces at the disposal of the commander of the town, 2,320 men, as well as 55 men from the Military Police and 20 men of the Secret Field Police will be placed at the disposal of Sonderkommando 11b". It appears from the document that this action was carried out by order of the Oberquartiermeister-2 of the 11th Army. Did you learn about the fact that considerable numbers of members of the armed forces, or units under the 11th Army, were put at the disposal of the Security Service?

A. I cannot recall it, but I can imagine that it took place in the following manner: the Oberquartiermeister received the commission from the Commander in Chief of the [11th] Army, because the Oberquartiermeister was quartered in Simferopol—that was the place concerned. The reason for this order, I can only speculate upon, as I testified before; I learned from this document just now how it was carried out, and I didn't recall this before. The document reveals that, according to Section II, soldiers, military policemen and members of the Secret Field Police, carried out this operation jointly with the Sonderkommando 11b. It was a very sudden raid which was considered necessary for some reason; prob-

ably in connection with the landings repeatedly mentioned in Yevpatoria; the last landing was on 5 January in Yevpatoria and had caused alarm and unrest in the ranks of the 11th Army.

Q. Witness, this morning I asked you when you said that the Einsatzgruppe D was subordinated to the 11th Army for marching and billets, whether that also comprised the places of garrison where those units of Einsatzgruppe D were to operate? After having refreshed your memory by the perusal of this document, would you say that it is true that the places of commitment of these units were ordered by the 11th Army?

A. Yes, it is evident from the order that in individual cases the Army said—"You will go to this place", because it was called for by our objective; and this objective or the mission was also stated.

Q. Let's now go into the question of the handing over of the watches. I will hand you Document NOKW-631, Prosecution Exhibit 568. You certainly remember this document; you have testified to it.

A. I must have seen it because I signed it for the commander and upon orders of the commander in chief I conducted the telephone conversation with Ohlendorf.

Q. And if I understood your testimony correctly you said that it was not understood by you that the owners of these watches had been killed; what you understood was that these watches came from people who had been sent to the ghetto; is that what you testified?

A. They had either been put into a ghetto or had been resettled or else had been arrested as communist agitators or saboteurs. I think the crucial point here, as I testified, is that I could not possibly have had the conviction that the term "Jewish action" cloaked the mass extermination of Jews on racial grounds.

Q. I just wondered one thing as to your first contention that you were of the opinion that these people were resettled. I would like to ask you, is it logical that if somebody is to be resettled that he is to give up his watch? He might well give up his clock which he cannot carry, but why should he give up his watch?

A. Of course he could carry his watch; perhaps he needed a handcart and bartered his watch to get a handcart—to give you an instance.

Q. I think from this document that you cannot be mistaken of the fact that these watches were confiscated. It says the watches were confiscated, so they certainly were not received by Einsatzgruppe D by a form of barter. All right, the second part of your

reasoning that these may have come from people who had been arrested, or who had been shot for sabotage or other reasons. Why does it say then anti-Jewish action? There were also other saboteurs apart from the Jews and their watches would be practically as welcome to the 11th Army as the Jewish watches, would they not?

Witness, are you not going to admit that you actually knew beyond any reasonable doubt that the owners of these watches had been killed by the Security Service? That is the only question I want to put to you in connection with this document. Please answer the question with yes or no.

A. I will answer it by saying no, because if I killed somebody I need not confiscate anything because I inherit his stuff at any rate; but if I detain a person, or for some other reason I want to get hold of his property, for instance his watch—money is also referred to in this case—then, it is confiscated. The translation here states that it was an action hostile to the Jews, there is nothing here about that, it is probably a mistake. Of course, "Judenaktionen" [Jewish actions] are certainly not friendly actions towards the Jews. As I clearly stated in direct examination, I don't know why General von Manstein suddenly wanted to know about it.

Q. You can possibly tell the Tribunal whether you know if these watches were actually received?

A. I assume that, according to Ohlendorf's statement, they were handed over by the Security Service.

Q. Perhaps I don't make myself sufficiently clear. I want to know whether you learned that these watches were actually handed over to the 11th Army.

A. That is possible, because I knew that this concerned watches which were in fact in the possession of the Security Service.

Q. Let me hand you in this connection, Document NOKW-3238*, which I offer as Prosecution Exhibit 1606.

PRESIDING JUDGE YOUNG: It is admitted as part of the cross-examination.

DEFENDANT WOEHLER: Yes, I have read it.

MR. HORLIK-HOCHWALD: This document contains a report of 12 September 1941.

A. No, 12 February 1942.

* Document reproduced in section VII F 2, Case 12, vol. XI.

Q. Don't you have in front of you—there must be two reports, witness, one from Ohlendorf to the 11th Army and another one from Ohlendorf to the 11th Army; one of 12 September 1941 and the other 12 February 1942, but it might well be that there is a typographical error. It is not. The first one is a report from a Sonderkommando which was committed at Kherson and talks again about a settling of the Jewish question and eliminating of Communists still around there. The second is the one on which I have questioned you, dated 12 February 1942.

A. Yes.

Q. Information of Ohlendorf to the 11th Army, turning over 120 watches to the 11th Army and reporting that 50 more watches were in repair; and then it says "please let me know if the Army Command still needs the rest of the watches" and, underneath, is a handwritten "yes". On the top is an initial "W". My question is, Witness, the "W" is your initial, is it not?

A. Yes.

Q. Is the "yes" your handwriting?

A. Possibly, after the decision made by von Manstein who also saw this.

Q. I hand you the original. I do think that both the initial and the "yes" are written in the same green pencil. Possibly you will be able then to tell the Tribunal whether you put your "yes" under the document.

A. Yes, it says "OB", Commander in Chief, the "W" and the "yes" are in green color, but I do contest that I took the decision myself. That was done by the Commander in Chief of the [11th] Army.

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[Further materials from the record in the High Command Case appear in Volume XI. See contents, p. V, this volume.]

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