

000241

Legal Form No. 8

## MILITARY GOVERNMENT COURT

## CASE RECORD.

VOLUME X - Pages 2019 - 2279 Incl.

MALMEDY

Case No. 6-24 Prosecutor. LT COL BURTON F ELLIS  
 \*General Military Court. Defence Counsel COL WILLIS M EVERETT JR  
 \*General Interpreter \_\_\_\_\_  
 Place DACHAU, GERMANY  
 Date 0830 hours 24 JUNE 1946 Reporter \_\_\_\_\_  
TO 1200 hours 26 JUNE 1946 Incl.  
 Members of Court:

BRIG GENERAL JOSIAH T DALBEY  
COL PAUL H WELAND  
COL JAMES G WATKINS  
COL WILFRED H STEWARD  
COL RAYMOND C CONDER  
COL A H ROSENFELD (LAW MEMBER)

Accused VALENTIN BERSIN, ET AL  
 Address \_\_\_\_\_ Sex \_\_\_\_\_ Age \_\_\_\_\_

	First Charge	Second Charge
Pleas <u>VALENTIN BERSIN, ET AL</u>	<u>Not Guilty</u>	
Findings	<b>CLASSIFICATION CANCELLED</b> By authority of <u>DAG</u> Lt <u>Val</u> Aug 1950.	
Previous Convictions		

Sentence { Imprisonment { Term \_\_\_\_\_  
 Beginning \_\_\_\_\_ 194 WB  
 Fine { Amount \_\_\_\_\_  
 To be paid before \_\_\_\_\_ 194 \_\_\_\_\_  
 or in case of default of payment to serve a \*further  
 term of \_\_\_\_\_  
 Imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

## REVIEW

Action of Reviewing Authority \_\_\_\_\_

(Signature of reviewing authority)

\*Strike out words not applicable.

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## R E C O R D   O F   T E S T I M O N Y

in trial of

THE UNITED STATESVERSUSVALENTIN BERSIN, ET AL

By

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANYBEGINNING 16 MAY 1946

VOLUME X - PAGES 2019 - 2279, INCL.

24 JUNE 1946 - 0830 hours

TO

26 JUNE 1946 - 1200 hours

T E S T I M O N YWITNESSES:

	<u>Direct</u>	<u>Gross</u>	<u>Redirect</u>	<u>Recross</u>	<u>Court</u>
PEIPER, JOACHIM		2019	2022	2032	
BIRNSCHEIN, HEINZ	2046	2050	2058		2042 2060
LEHMANN, RUDOLF	2060	2062			
BUCHHEIM, Dr. ROLF	2064	2069	2082	2083	2087
KROPP, WALTER	2088	2090			
OTTO, ERNST	2091	2099			2102
✓ KINDERMAN, ERHARD	2103	2107	2110	2110	
GOLTZ, HEINZ ✓	2112	2118			
CHRIST, FRIEDRICH	2123	2137	2159	2159	2159
✓ MAURER, OSKAR	2160	2164	2170	2171	2171
✓ VOLLSPRECHT, HORST	2176				
HENNECKE, HANS	2179	2188	2207		2209
LEIBER, KARL HEINZ	2211	2213			
ZITZELSBERGER, JOSEF	2214	2216	2218		
HACKE, WERNER	2219	2221			
SCHNEIDER, KLAUS	2223				
✓ TOMHARDT, HEINZ	2225	2238	2252	2253	
AGATHER, BENNO	2254	2257			
ALBRECHT, SIEGFRIED	2259	2262	2271		

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THE UNITED STATES                      versus                      VALENTIN BERGIN, ET AL

EXHIBITS

<u>Number</u>	<u>Description</u>	<u>Marked</u>	<u>Offered</u>
D-3	STIPULATION relative Heinz Tomhardt	2235	2235

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6-24-MDH-1

CAMP DACHAU, GERMANY

24 June 1946

MORNING SESSION

(Whereupon the Court reconvened at 0830 hours.)

PRESIDENT: Take seats. The Court will come to order.

PROSECUTION: If the court please, let the record show that all members of the Court, all members of the Prosecution, with the exception of Lt. C. L. Crawford and Mr. Elowitz, who are absent on business of the Prosecution, and Capt. Byrne, who has been excused by verbal orders of the Commanding General, all members of the Defense, with the exception of Dr. Lelling and Dr. Rau, who are absent on business of the Defense, all of the Defendants and the Reporter, are present.

DEFENSE COUNSEL: The Defense recalls the accused, former Col. Joachim PEIPER.

JOACHIM PEIPER, ONE OF the accused, recalled as a witness in his own behalf, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q If I recall my point of view, on cross examination you stated that you have been held at Ober Ursel in American custody; is that right?

A Yes.

Q Do you recall between what dates you were held there?

A I remained there from the middle of September 1944, until the first part of November 1944. 1945.

Q You were interrogated while you were there, weren't you?

A I wasn't interrogated but I was questioned about several points once or twice with oral conversation.

Q Do you know who you were questioned by?

(Peiper - cross).

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Q Do you know who you were questioned by?

A At one time it was a man from the War Historical Department and at the other time it was a young man whose name I don't know and who was not wearing any insignia of rank.

Q Were you ever interrogated by a Captain?

A Yes.

Q What were you interrogated about?

A If I remember correctly, the object of this interrogation was the record of the interrogation I had written in Freising.

Q Now on cross examination on Saturday you stated you were accused at Ober Ursel of mistreating Col. McCown. Did you mistreat Col. McCown at any time?

A I don't remember testifying to that on Saturday and, by the way, I never did mistreat him.

Q Did you make any statements during this interrogation in Ober Ursel about your experiences with Col. McCown while he was held as your prisoner?

A I did not make any statements but I talked to the man conducting the interrogation about experiences that I had with American prisoners, including Major McCown.

Q Were these statements that you made true?

A Yes.

Q You are pretty sure that everything you said with respect to McCown was true?

A I told the gentleman, in the course of the interrogation, or rather, in course of the conversation, that I did not have the intention of saying anything which would do any harm to Major McCown since my meeting with Major McCown at that time had occurred on a very human basis and our conversations, too, were held in a manner which can be understood only from the difficulty of the tactical situation then.

(Feiper - cross).

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Q Feiper, I asked you the question whether you were pretty sure all the statements you made about McCown were true? Are you pretty sure that they were true? I think you can answer that yes or no, without a long discourse.

A No.

Q Everything you said was not true?

A No.

Q What did you say about McCown that wasn't true?

A I don't remember many details in that connection any more.

Q Why did you make any statements that were untrue about McCown?

A For the reasons already mentioned.

Q Will you repeat those reasons?

A The gentleman talking to me wanted to know every detail of every conversation I had had with McCown. Upon that I told him that I did not feel like telling him that for if he did not have sufficient tact and still wanted to talk to me about these subjects and I would feel compelled--I would feel it my duty to keep an old comrade in the blood from being snooped around like this.

Q Then you would not have made any statements about Col. McCown that would hurt him, would you?

A No.

Q As I recall, on direct you testified, I believe it was at La Cleize, a Belgian civilian clubbed one of your wounded to death. Is that correct?

A I said in La Cleize a Belgian civilian hit one of my men over the head with an axe, crying Vive la France. In Cheneux, that was. Whether the man died or not I don't know.

Q What happened to the civilian?

A He was shot on the spot.

Q Didn't you give him a trial?

(Feiper - cross).

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A No, that happened in combat, while the Americans were attacking.

PROSECUTION: If the Court please, the Prosecution desires at this time to not further cross examine Col. Peiper, but would like to reserve the right to recall him for further cross-examination at a later date.

LAW MEMBER: No objection?

DEFENSE COUNSEL: May it please the court, I don't think that the Prosecution has the right to recall an accused. It is contemplated that Col. Peiper will be recalled to the stand.

LAW MEMBER: Well, suppose we leave it this way: If any special circumstance develops whereby it is necessary to recall Col. Peiper, the Court will do so on behalf of the Prosecution.

DEFENSE COUNSEL: Yes, Otherwise I do not want to commit-- make a commitment at this time.

PRESIDENT: Any questions further?

DEFENSE COUNSEL: Yes, I believe Dr. Leer.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (DR. Leer):

Q I should like to put a motion before the Court at first, and that is, I would like to move that the question and answer concerning gassing experiments be stricken from the record. This question has nothing to do with the charges.

PROSECUTION: If the court please, on direct examination Col. Peiper testified that he was a military adjutant of Himmler's and I believe that in going into his military career, which he testified to at some length, we can cover everything that he did as the adjutant of Himmler. The Defense, by opening up the subject of past history of this accused, opened up the matter of gasings themselves. The Prosecution believes this is perfectly proper cross examination.

(Peiper -redirect)

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DR. LEER: It is correct that the accused was asked about his military career, but the question as to what his duties were as personal adjutant for ten months have nothing material to do with his military career. Since the Defense would have to prove that it was not a matter within his duty but rather an accidental happening. But to do this the Defense is in no position in this trial. For that reason I renew my motion and ask the Court to strike this matter from the record.

PROSECUTION: If the Court please, the Defense opened this subject up and I don't believe that by any stretch of the imagination the Prosecution is limited only to the good things of this accused's military career. When they open it up, they open up the entire field, both the good and the bad.

DEFENSE COUNSEL (DR. Leer): I was--I do not intend to discriminate between good and bad incidents, but rather between military and nonmilitary ones.

PROSECUTION: It is most unfortunate that you opened it up, perhaps, for your accused, but I think you are going to, as a matter of law, stand on what you have done, not on what you hoped to do.

DEFENSE COUNSEL (Dr. Leer): Is that directed to the accused or to the Defense Counsel? I didn't understand.

PROSECUTION: I will direct it to you, if you would like to have it that way. Limit it to you.

DEFENSE COUNSEL (Dr. Leer): In that case I would like to know just what harm could be done to any lawyer for making a motion in Court?

LAW MEMBER: In view of the fact that the accused has taken the stand on his own behalf, any matters which may even remotely deal with the case may be gone into on cross examination. The motion will be denied. The Court, of course, will place whatever value it deems fit on the evidence as brought out.

(Peiper - redirect).

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6-24-MDH--6

QUESTIONS BY DEFENSE COUNSEL (Dr. Leer):

Q Who asked you to prepare a so-called defense statement?

A That was Capt. Fanton, who first interrogated me in Freising, then showed me the interrogation record at Ober Ursel and then finally in Schwabisch Hall and read it to me.

Q Did you keep a handwritten copy of this defense statement?

A Not a handwritten one.

Q A typed one?

A Yes.

Q Did you make another typewritten statement besides this one?

A No.

Q Would you maintain this answer of yours, this "no", if I told you that other witnesses made statements of their own after being confronted with a typed statement by you bearing your signature?

A No. My answer remains the same.

Q This book about Ghengis Khan was mentioned repeatedly. In what manner did you come into contact with that book?

A All SS officers who had to go through any military academies were, during 1937, forced to write a tactical--were forced to write a thesis of a tactical nature and a nature concerning military history. And in that connection we also received an order during 1937 to write a theme on the subject, the Significance of the Yassah for the Mongolian Empire, and sources for this a number of books were given, including two books by Prawdin, which, however, the Prosecution has only in one volume, I think.

Q You have mentioned the name Ghengis Khan in your cross examination in that connection and you said you were not a Ghengis Khan. What conversation caused you to do that?

A When I first talked to Major McCown I said, laughingly, "You are really suffering from a stroke of bad luck by falling into the hands of us bloodhounds here." Upon that he himself laughed and said, "That is propoganda. I know very well that these are the best troops in the world, for any other troops in your position would (Peiper - redirect)

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have surrendered a long time ago." And in that connection we came to talk about propaganda in general and the reputation of the SS which was created in such a manner.

Q Did you ever point to the true state of facts prior to signing or being sworn in those, any of those statements?

A Yes. The only thing that happened during the Ardennes offensive and which I knew was not proper was the complex or incidents at the cross roads near Malmedy about which, however, I neither knew nor believed that my combat group was participating in that. That incident at the cross roads I therefore never denied in any manner. However, I was only able to maintain that at the time in which I was at the cross roads nothing extraordinary had yet happened. All other incidents brought out here and that include some of the cross-roads down to the time of our break I stated to be freely invented.

Q Did you put through an order to have an investigation made concerning the incident at the cross roads, and what success did that investigation produce?

A Upon returning to the Division C.P. on the 25th of December I received an order to determine whether any men of my regiments were involved in this incident at the cross roads; at that time I promptly ordered the commanders of my two battalions, that is, Major Poetschke and Lt. Col. von Westerhagen, to institute such investigations. And I also gave similar instructions to Capt. Diefenthal although at that time he was no longer under my command. After two or three days I then received reports from my two battalions, to the effect that none of their men had participated in the incident at the cross roads. One or two days later the same report came from Diefenthal. As to the investigation conducted by Poetschke, I must say that at the time only one of the four company commanders of his battalion were still around. Poetschke was moved over to a combat group in the area of Bastogne at the time and, on top of that, the then commencing American counter-offensive did not leave us any time

(Peiper - redirect)

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did not leave us much time to concern ourselves with that matter. I considered the obviously false, erroneous reports of my commanding officers as sufficient.

MR. STRONG: I think it should mean the negative reports of my commanders.

INTERPRETER: Strike out this answer, "The obviously negative reports" instead of "erroneous reports". Upon that I also made a negative report to my division. Conditions at that time then shaped up in such a manner that one forgot the whole incident very rapidly and, as I said before, I remained convinced, until my interrogation at Schwaibisch Hall, that nobody in my regiment was involved.

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#240-SR-6/24-1

Q Were you ever confronted by the interrogation officers that you were not involved in the Crossroads incident?

A Yes.

Q At what occasion?

A I was told by 1st Lieutenant Perl on March 21st, at which time he told me that I really wasn't the bad man that I was assumed to be at the beginning but that they intended to go much higher now and the time had now come to incriminate my superior General Dietrich. Upon being confronted on the same day with the testimony of General Dietrich, I, of course, had no way of knowing that this testimony did not actually exist and that General Dietrich did not arrive in Schwabing Hall until the day after.

Q Are you trying to say by this that a statement of General Dietrich was put before you?

A The decisive part of this testimony was read to me, that is, where General Dietrich said in his Army Order that fighting was to be done with brutality and terror and that no humane inhibitions were to be shown. The first statement to that effect was made by General Dietrich only a day after that, after my testimony was put before him, which I in turn had made, based upon his testimony the day before. The same happened with my adjutant who was confronted with my defense statement several days prior to my first interrogation and who was told at the time, "Your commanding officer has confessed everything" and he was told several proper details and he then made a statement along that line, which in turn was put before me on March 23rd.

Q Were the men of Hardick under you, that is, from (Peiper-Redirect)?"

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Tk #240-SR-6/24-2

the action Greif?

A No.

Q Did you have any opportunity to observe that violations of the Geneva Convention were perpetrated by Hardick or his men?

A No, I didn't come in contact with this whole bunch.

Q The question was opened up on cross examination at what time a senior officer would have power of command over a younger officer with higher rank. In what cases is that possible?

A That is a difficult question since we had a particular system of efficiency in our outfit. Seniority would therefore not always play an important part. For example, in Lanzerath an Airborne regiment commanded by a colonel was put under me at a time which I myself was a Lieutenant Colonel still. Furthermore, it is always like this: that any officer has the duty to take action and inform a higher ranking officer of anything which violates the laws of war.

Q In cross examination we were reminded of your conversation with Mr. Paul. Which of your statements are based upon this conversation?

A In general I might say that my whole testimony is based on that. However, I must say that the gist of the conversations with Mr. Paul and with 1st Lieutenant Perl was so uniform that that could not be an accident and that I therefore had to get the definite impression that these were to be guiding lines for my conversation, regardless of guilt

(Feiper-Redirect)

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or innocence.

Tk #240-SR-6/24-3

Q Did you have the experience to find that prisoners of war were expecting to be killed by the Waffen SS?

A Could I ask you whether you mean this to compare the west or east or in general?

Q West?

A I found that most of the prisoners of war that I talked to believed that they would be shot and that at the time which they had not even had an opportunity to see that we were from the Waffen SS which is probably based mainly on the radio propaganda which we were forced to hear almost every day before the invasion and which invented the same things about us as the famous Northcliffe Press during the first World War.

Q Did the appearance of American prisoners of war agree with the picture that your men had of them or were there any divergencies here too?

A No, in war it is usually like this: One attacks one another with great fury and when one meets face to face, one generally finds that after all, you are not as bad as I thought you were, and that fundamentally it really would be very stupid to bash in each other's heads.

Q You mentioned that the accused Diefenthal was wearing a yellow jacket. I will ask you whether any other men in your combat unit were wearing yellow jackets.

PROSECUTION: If the Court please, we object to that. He has already testified, I think, that Thiele, and one other officer, possibly Diefenthal, were wearing yellow jackets. This question has been asked and answered on direct

(Peiper-Redict)

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Tk #240-SR-6/24-4

examination.

DR. LEER: That is correct, but the answer of the witness was not comprehensive and he was not asked whether other accused or other soldiers were wearing yellow jackets and for a logical procedure the first question as to whether anybody was wearing yellow jackets should be followed up by the question, Was any other man in your combat unit wearing a yellow jacket? He was asked who was wearing yellow jackets and he named them.

PRESIDENT: The objection is overruled.

THE WITNESS: Besides those two persons whom I mentioned by name, at least fifteen other men, or even including officers were wearing yellow jackets in that combat group.

QUESTIONS BY DEFENSE COUNSEL (DR. LEER):

Q In a very long direct question put before you by a representative of the Prosecution you stated "We knocked out one enemy tank in Engelsdorf." By that, do you mean that your men did that or that you personally participated in knocking out that tank? You remember that question of the Prosecution, do you not?

A Yes. When I say "we", of course, I mean my combat group.

Q Can you give us a brief description of your duties as regimental commander during the Ardennes Offensive and tell us on what particularly you had to concentrate your attention as regimental CO?

A During the Ardennes Offensive I was not only  
(Peiper-Bedirect)

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Tk #240-SR-6/24-5

regimental CO but also the commanding officer of a very strong armored combat command. I had received a very important mission and was bearing a very severe responsibility, particularly for the reason that I did not have any or hardly any communications with higher headquarters from the first day to the last. I never received any order but I had to invent those on my own, and even while breaking out at La Gleize I did not have the slightest idea where our own line of resistance would be. For that reason -- and I would like to emphasize this -- the prisoner of war responsibility was a particularly severe one in the course of this mission. My tasks themselves were of a purely tactical nature and I myself considered it my first duty to be present at the point at all times in order to speed matters up and in order to attempt to achieve some surprises in spite of the great delays of time which had occurred in the very beginning. In that connection it must also be said that it certainly was not my task to personally care for prisoners of war. All I knew in La Gleize was that we had a pretty large bunch of prisoners and I felt that these represented a very great burden to me but nevertheless I personally neither visited them myself nor ever had a head count of the made because I was not interested in the matter at all. During the whole mission prisoners did not interest me at any time. In the meeting of my commanders and officers in Blankenheim I expressly told them I was not a bit interested in prisoners of war and that the only important matter as far as we were concerned was to break through fanatically at maximum speed and that anything which in the course of our break-through would remain lying in the ditches, be it prisoners of war or material or tools of war, that they (Peiper-Bedirect)

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Tk #210-SR-6/24-6

would later be picked up by the infantry following us and in that connection I will also say that in the course of many other armored break-throughs we really had nothing to do with prisoners of war. In other words, we were driving at a great speed, firing from all barrels. We penetrated the soft spots of the enemy like an arrow and the infantry which followed collected the prisoners of war.

Q One further question. When signing the interrogation record at Freising on 1 January 1945, did you make any changes?

A I already stated on cross examination yesterday that I made this interrogation report after a very tiring and very long interrogation and that that was the first time when I again mentally was confronted with the incidents. The interrogation record was then read through partly in Oberursel and partly in Schwabisch Hall. No new interrogation occurred in the course of this and corrections which by that time I had noted down and which I gave to Major Fanton were no longer taken down for reasons of lack of space but rather, Major Fanton told me, "Well, you can write all that down in your defense statement," which was done by me.

DR. LEER: Thank you.

DEFENSE COUNSEL: You may recross.

#### RECROSS EXAMINATION

#### QUESTIONS BY PROSECUTION:

Q Foetschke reached you in Lignueville about 45 minutes after you arrived there, is that not true? I am referring to the 17th of December 1944.

A Yes, that is a rough estimate.

(Recross-Peiper)

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Tk #240-SR-6/24-7

Q It is true that Poetschke is dead now?

A Yes, unfortunately.

Q It is true also that you have so stated in one of your statements that Poetschke is dead?

A Yes, I had to state that in answer to the very first question.

End Tk #240

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Q Now, you testified about the reports you received from your two battalions on the killing of prisoners of war at the Cross-Roads near Malmedy. Did you get any reports from the 3rd or 9th Pioneer Company?

A The 9th Panzer Pioneer Company at that time was located together with the 1st Battalion and was under the 1st Battalion. The investigation of the 1st Battalion included the 9th Panzer Pioneer Company. The 3rd Panzer Pioneer Company was not asked by me, just like artillery was not asked by me and anti-aircraft was not asked by me, but rather it was reported to Division in what units of my former combat command the investigation had been made, with a request that the units mentioned were to be worked on by Division, since I no longer had the authority.

Q Did you consider it a complete report without contacting the commanders of these other units?

A I had received the order to determine whether anybody from my regiment had been in there. I did determine that, and on top of all that I even asked the 3rd Panzer Grenadier Battalion. The other units of my combat group at that time were already in positions located so far away that for obvious reasons I simply could not exert any more influence.

Q Were you present when Gruhle was interrogated in Schwaebisch Hall?

A No.

Q Now do you know what was told Gruhle?

A Because he told me.

Q Now, the fact that you had been given an important mission to perform, does that relieve you from all other command responsibilities?

A I, in my career, until now, I have always been known for (Peiper - Rector)

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Ta-241  
sh-2

being exceptionally eager to take responsibility, and if I am not mistaken the question as to how far I am responsible in this matter will be cleared up by the Court.

Q Well, are you responsible for the name that was given your battalion on the Eastern front as the "Blowtorch Battalion"?

DEFENSE (DR. LEBER): Might I interpose an objection here, that this question be eliminated here since the subject concern is the Ardenne Offensive and not the Russian campaign.

PROSECUTION: If the Court please, this accused has referred to hundreds of campaigns he has been in, and I believe this is proper cross examination.

PRESIDENT: The objection is sustained.

QUESTIONS BY PROSECUTION:

Q Now, you testified on redirect that you had no interest in PW's, is that correct?

A Yes.

Q Now, in LaGleize you had them carry ammunition from one tank to another, didn't you?

A I found out about this in Court here for the first time. I remember correctly our shortage of ammunition was so great, in LaGleize, in my opinion there was very little ammunition around to be carried.

Q Did you hear the statement I read to Col. McGown here in court about carrying ammunition -- American prisoners of war carrying ammunition, and you heard that he said it was correct, didn't you?

A Yes, I heard that.

Q And you heard me read from his statement that he protested to you, here in Court, didn't you?

A Yes.

(Paper - Recross)

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Ta-241  
ab-3

Q And you heard him say that was correct, didn't you?

A Yes.

Q And you now deny that those statements made by Col. McGown are true?

A I state that I did not know about this at the time. However, I should also state that for the reasons of the emergency then existing I probably would not have stopped it had I known about it.

DEFENSE (MR. STRONG): Correction - the witness said, "I don't remember at this time".

QUESTIONS BY PROSECUTION:

Q Will you also deny that you had American prisoners of war carrying the wounded under artillery fire in LaGleize?

A As far as denying also, you cannot put it that way because I did not deny the other matters, in the first place, and as far as carrying of wounded is concerned I do remember that and I know about it.

Q Did it happen?

A Yes.

Q Is that in violation of the Geneva Convention?

A Imagining this in a calm situation, two years after the war is over, yes, and when you are forced to do it in a desperate situation involving severe combat, no.

Q Well, how about the digging of foxholes by American prisoners of war at LaGleize? Do you remember anything about that?

A I did not know anything about this. I heard it here and it seems probable to me.

Q Now, you have denied that you have given any orders to shoot prisoners of war in LaGleize, isn't that true?

A Yes.

Q Now, if you knew that Rumpf, in his own handwriting, in a statement not introduced in evidence before this Court stated: --  
(Palper- Recross)

0:00:262

Ta-241  
ah-4

If the Court please, may I have Lt. Perl translate this statement into English, because I can't read it myself.

PROSECUTION (LT. PERL): "During the conversation in the C.P. of the Regimental Commander, Peiper mentioned that he had ordered a part of the Americans to be shot right away because American soldiers had refused to work. This would be the best means to make them obey, as the others would notice right away what's being played if those did not return. From this conversation I was under the impression that not only those were shot who refused to work, but as a warning for the other prisoners, a larger number of prisoners. Contrary to this, Peiper treated an American major in a very friendly way and talked with him for many hours. For instance, asked by the major whether the American prisoners who had been killed in action would be buried, he said, "Yes", and he said that one dog tag would remain with the killed one, whereas the other one would be fixed on the cross. We knew that this was not the truth. Peiper did not give them - the major - his name when he was asked about it, but as far as I remember he took the major's name and his home address".

And it has the name, Rumpf on it, and entitled LaGleize.

(Whereupon the statement read by Lt. Perl was read in German by the interpreter.)

QUESTIONS BY PROSECUTION:

Q Do you deny the truth of that statement of Rumpf's?

A Completely. I do know too how this testimony was obtained.

Q Will you tell me how this statement was obtained?

A As far as this statement in particular is concerned, I cannot say anything about it, but I think 1st Lt. Rumpf will be able to testify to that when he takes the witness stand.

Q All right, here is another statement by Rumpf, in his own handwriting: "Hennecke, 1st Company passed to me Peiper's order that (Peiper - Recross)

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I should send several men for the shooting of American soldiers. I went to a house in which the drivers lived and in which some men from the Headquarters squad, 1st Platoon (Hering) probably in order to cook there. I went into this house because the soldiers in the groups were in position. In the basement of this house there were besides members of my company men of the 3rd Pioneer Company. I said that I needed several men for this mission and named some. Amongst them were Maute and Schimpel, the others I cannot name with certainty - there were four or five men."

Do you deny the truth of that statement?

DEFENSE (DR. LEER): I should like to....

PROSECUTION: Can we have this translated first and then you can make your objection?

(Whereupon the statement was read in German by the interpreter.)

Q Do you deny the truth of that statement?

DEFENSE (DR. LEER): I should like to register an objection to that. This piece of writing was not introduced in evidence here as yet, and we therefore did not make any statements as to it yet.

PROSECUTION: Well, I am not claiming it is in evidence, I am just saying it is a statement made by Rumpf and asking him whether it is true or not.

DEFENSE (DR. LEER): I think it should be introduced in evidence before it should be permitted to be asked questions about.

PRESIDENT: The objection is overruled.

QUESTIONS BY PROSECUTION:

Q Can you answer the question?

A Yes.

Q Will you answer the question?

A What is mentioned in this testimony is completely unknown to me.

(Peiper - Recross)

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Q Do you also deny this statement of Rumpf's: "Already when we arrived in LaGleize, the drivers who were in LaGleize before the company spoke about shootings, so that shootings must have taken place already prior to our arrival". Do you deny the truth of that statement?

A Yes, I have already testified that no American at all was in LaGleize on the 18th.

Q Do you deny the truth of this statement by Rumpf: "In the afternoon Korf told me that the prisoners had been shot because some had refused to work for the panzer men. The same had been named as reason before, from what is to be seen, that the shooting originated from the panzer men". Do you deny the truth of that statement?

A Since I know nothing of this incident at all, I cannot deny it either.

Q Now, with reference to the statements of yours that were dated 21 March and 26 March, 1946, both of which you say are untrue and they are Prosecution's Exhibit No. 11 and 125, when your oaths were taken to these two statements was not Capt. Schumacker there and didn't he sign those as a witness of your signature?

A Yes.

Q Did you ever explain or state to him before or after signing your statements that the contents were untrue?

A I never talked to Capt. Schumacker.

Q You knew that I was present in Schwabisch Hall, and that I visited you in your cell several times after both these statements were taken, isn't that true?

A Yes.

Q Never on one occasion did you ever tell me that there was anything in your statements that were untrue, that you wanted to change them, did you?

(Peiper - Recross)

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A I have already testified before this Court that due to the open statements which I had received by this Mr. Paul, alias Lt. Guth, and 1st Lt. Perl, that this information had given me the impression that the truth was not one of the material points in this investigation, and the statements which I had seen about it confirmed this opinion to me unanimously, and upon that I permitted everything to be dictated to me lethargically, and from that attitude I therefore did not have any reason to talk to you about this.

Q Well, I thought you reminded me Saturday that I had told you that the statements made by Lt. Perl had no authorization and he shouldn't have made them. It was in December, wasn't it, that I was supposed to have made that statement to you? Just a moment -- can't you answer that question "yes" or "no"?

A No, I can't answer that question with "yes" or "no".

PROSECUTION: If the Court please, I believe that question is perfectly able to be answered by either "yes" or "no", and I request that the witness be directed to answer that "yes" or "no".

LAW MEMBER ( Please read the question (to the reporter).

(Whereupon the reporter read the last question by the Prosecution.)

DEFENSE: May it please the Court, the witness cannot be compelled to answer "yes" or "no", and counsel - I am sure - is familiar with that.

LAW MEMBER: If the witness can answer it "yes" or "no", very well, if not the witness can answer it in the manner he can.

A After I found out in Schwaebisch Hall that 1st Lt. Perl was the Chief interrogator in the Malmedy case, I had to reach a conclusion that he would have to be very well authorized in connection with any questions coming up in the case. The impression I gained was that he was playing the main part there, and for that reason his statements could not be of just minor importance.

(Peiper - Recross)

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PROSECUTION: No further cross examination at this time.

ACCUSED PEIPER: I ask the Court to be permitted to make one further statement in connection with the cross examination by Col. Ellis.

PRESIDENT: Go ahead.

ACCUSED PEIPER: Early in May, here, I had a personal conversation with Lt. Col. Ellis. This conversation occurred on a personal, human plane -- fundamental -- and in that connection I asked Col. Ellis whether he, personally, really believed all the things I am accused of here.

PROSECUTION: If the Court please, I object to that, that it is irrelevant whether I believe what is going on here or whether I don't believe what is going on here. I don't believe that has any bearing on the case here.

PRESIDENT: Objection is overruled.

ACCUSED PEIPER: I had told him that - Col. Ellis, surely would know that all my testimony resulted only from my attitude, that I wanted to save my men and wanted to cover them. Upon that, Lt. Col. Ellis said, "I admire you, and I hardly know another soldier who I estimate as highly as I do you, but you are sacrificing yourself on an ideal which no longer exists. The men whom you today think you have to cover up for are bums and criminals. I'll prove that to you in the course of the trial. We are now parting as friends and when we see each other again, before Court, as enemies, and I'll have to paint you in the most bloody colors, but you'll understand that I will only be doing my duty".

PRESIDENT: Any questions by the Defense?

DEFENSE: Dr. Leer.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE (DR. LEER):

2. Were any American wounded carried by the American litter (Peiper - Redirect)

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bearers in LaGleize?

A Yes. The wounded of both nations were carried without discrimination.

PRESIDENT: Any other questions?

DEFENSE: Nothing further on redirect.

PROSECUTION: If the Court please, I move that the statement made by Peiper concerning me, who -- I don't believe I am on trial -- be stricken from the record. Furthermore, it has no bearing on the issues in this case, and it was made after all the statements and all the evidence was taken from the accused.

LAW MEMBER: The Court is well aware of the nature of the statement, its meaning and relevancy to the issues in this case, and the Court will place upon it the value it deems necessary.

PRESIDENT: Any questions by the Court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q When you had your conversation with the then, Major McGown, or your conversations rather, did you know you were surrounded by enemy troops?

A I knew that the situation was difficult, but at that time I was of the conviction that a regiment sent by my Division would come in to relieve me. Furthermore, in the course of the 21st December, I heard some very loud combat noises Northeast of me, and was of the opinion that that was due to the Division Hitler Youth. In the course of the 22nd, it became clear to me that I was completely surrounded and that relief was improbable.

Q Were you responsible for the training of the 1st Panzer Regiment in December 1944?

A Yes.

Q What was the date on which you were confined in what you (Peiper - Court)

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state was a dark cell in the cellar at Zuffenhausen, the approximate date?

A The end of October to the beginning of November.

Q 1945?

A Yes.

Q Were you responsible for the discipline of the 1st Panzer Regiment in December 1944?

A Yes.

PRESIDENT: The Court will recess until 1030.

(Whereupon at 1000 hours the Court recessed.)

(Peiper - Court)

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(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If the court please, let the record show that all members of the court, all members of the prosecution with the exception of Lt. Col. Crawford, who is absent on business for the prosecution, and Captain Byrne, who has been excused upon verbal orders of the Commanding General, all members of the defense, with the exception of Lt. Wahler, Dr. Wieland, Dr. Leiling, and Dr. Rau, who are absent on business for the defense, all of the defendants, and the reporter are present.

If it please the court, inasmuch as the speech by Peiper has been admitted in evidence, it is the contention and the position of the prosecution that he has now placed his character in evidence and his former question, relative to his conduct and responsibility in the name of his Battalion on the eastern front, should now be admitted.

LAW MEMBER: Before you proceed suppose the accused Peiper takes the stand; I don't think he was through on the stand; the court wasn't finished, if you don't mind.

DEFENSE COUNSEL: The defense recalls the accused former Colonel Joachim Peiper.

JOACHIM PEIPER, one of the accused, resumed the stand and testified further through an interpreter, as follows:

LAW MEMBER: If you will please read back the motion by the prosecution?

(Whereupon the reporter did as requested.)

PROSECUTION: And also we specifically request that the statement of Motzheim which was previously precluded be now admitted on that subject. Just a minute, I want to check the name of the person who made that statement about the eastern front. The name of the accused who made the statement is not

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Motzheim, it is Zwigart.

DEFENSE COUNSEL (Dr. Leer): May I reply to that? The questions which are issues in this case were not changed by the last statement of Peiper. Questions about character remain questions about character and occurrences which have nothing to do with the issues in this case.

PROSECUTION: If the court please, over my objection this accused testified about what a wonderful person he was and if that is admissible he certainly has placed his character an issue before this court.

LAW MEMBER: The motion of the prosecution is denied. There are other questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Do you know where Dr. Dittman is now?

A I do not know where Dr. Dittman is.

Q Will you give the court the details of the beating you alleged you received at Schwaebisch Hall?

A On the last day of my stay in Schwaebisch Hall I was called for interrogation and received, as was usual, a black hood over my head. And I had to wait down there in the hall of the prison for about five minutes, since the American Sergeant who came for me went to get some other comrades of mine from their cell. During this occasion when I was standing there quietly waiting I was struck in the face by a person unknown to me and several times in my sexual parts with a stick. I was of the opinion that they were Poles, since they were guarding this house.

PRESIDENT: Any other questions by the court? Apparently not. The witness is excused.

(Whereupon the witness was excused and resumed his seat in the dock.)

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DEFENSE COUNSEL: The defense calls as its next witness, Heinz Birnschein. Dr. Leer, on behalf of the defense, will conduct the direct examination. The defense does not contemplate recalling this witness.

HEINZ BIRNSCHEIN, a witness for the defense, was sworn and testified through an interpreter, as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Leer):

Q Please give us your full name?

A Heinz Birnschein.

Q When were you born?

A 9 January 1918.

Q And do you remember the time of the Ardennes Offensive?

A Yes.

Q Can you tell us when you found out the first time about the Ardennes Offensive?

A I found out for the first time about the Ardennes Offensive on the evening before the attack on the 15th of December.

Q Before this attack did you take part in a military instruction course of Peiper's?

A Yes, I took part in a military instruction by the then Regimental Commander, Peiper.

Q When was that and where?

A That was about the 10th of December, on the C.P. of the Heavy Armored Battalion 501, in the vicinity of Satewer.

Q Can you tell us who was present at that time?

A At that time all of the officers of the Heavy Armored Battalion 501 were present, among others; Hauptsturnfuhrer Hoebius, Feller, Amselgruber, Wessel, and the Obersturnfuhrer

(Birnschein - Direct)

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Lukasiun. Those were all that I remember.

Q What was the contents of this military instruction?

A The Regimental Commander spoke to the entire Officers Corpe and appealed to us to treat the new weapons which we were to receive carefully and we should influence our men to know that these weapons should last a long time because the home front could not give us any more weapons in the near future. Among others, he talked about the possibility that we would go from here into a new combat mission.

Q You, yourself, were a member of the First SS Panzer Regiment?

A I was a member of the King Tiger Battalion 501 which was under the First Panzer Regiment, as for tactical purposes is the Second Battalion.

Q How long had this Regiment been committed on the western front?

A The Regiment had been committed on the western front since about May '44.

Q Was there anything said in this just mentioned conference about a new method of fighting?

A Yes, it was especially emphasized that the Allies had superiority in the air, that meant for us that we would have to camouflage ourselves particularly and that we would have to work fast during combat.

Q Was there anything said about prisoners of war?

A No, nothing was said about prisoners of war.

Q How was the problem of prisoners of war treated during the time that you were with the Regiment?

A The instructions about prisoners of war were given every month in the companies and were included in the service records. That meant for us Panzer soldiers that prisoners of war were fundamentally sent on the advanced road to the rear

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who were then taken up by the infantry that followed.

Q Was there anything said about treatment of wounded?

A No, nothing was said about wounded.

Q How was the problem solved in the First Panzer Regiment about wounded, that is, about your own wounded, as well as foreign wounded?

A The wounded were left on the advanced road and were being taken up and treated by the medical units that followed.

Q Was there anything in this mentioned explanation said about how these people were to behave themselves in the combat to be expected?

A Yes, the Regimental Commander demanded of us, as well as of all men, the full commitment of each individual people with the remark that these were probably the last weapons that the home front could give us.

Q You told us at first that you found out in the Blankenheim Forest on the 15th about the coming offensive for the first time, is that right?

A Yes, that's right.

Q On what occasion did you find out about it?

A In Engelsgau on the occasion of a company conference in the C.P. of Von Westerhagen.

Q Is Engelsgau in the vicinity of the Blankenheim Forest?

A Yes, Engelsgau is directly located on the edge of the Blankenheim Forest.

Q Who was present at this conference of Company Commanders?

A The following were present: Company Commander Moebius, Wessel, Feller, the Adjutant Obersturmfuehrer Kalinowski, and Hauptsturmfuehrer Tehr.

Q What happened during this conference?

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A Von Westerhagen, our Commanding Officer, gave us our maps and told us, based upon these maps, our route of march, the formation and the commission of our battalion. Furthermore, the coordinate numbers were given for the various locations.

Q What basis did he use for that?

A Von Westerhagen said that he had come from a conference and he had made notes and, based upon these notes, he gave his orders.

Q Which order was read on that occasion?

A No order was read on that occasion.

Q Was there anything told you about the prisoners of war and wounded in the combat that followed?

A No, nothing was mentioned.

Q Did you ever find out about a Regimental Order of the First SS Panzer Regiment?

A No, not of any order concerning this Ardennes Offensive.

Q Did you ever find out about an order of the day of the accused Sepp Dietrich?

A Yes, this order of the day was submitted to me when I came back to my company from La Gleize. It was about the 28th or 29th of December.

Q Can you tell us about the contents of the order of the day?

A I know that this order was headed by soldiers of the 6th Army and had about the following contents: "You are confronted with heavy combat, the home front has given us new weapons for this purpose, stronger "V" weapons will support the attack. Furthermore, the Air Corps will again support us! And it closes about as follows: "The home front looks at you with confidence. Prove yourselves worthy of this confidence."

Q Was there anything about the method of fighting said in this order?

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(Birnschein - Direct)

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A No, nothing was said about the method of fighting in this order.

Q Was there anything in this order about the treatment of prisoners of war or civilians?

A No, nothing was mentioned about that in this order.

Q Was there anything said in this order about any human inhibitions to be dropped?

A No.

DEFENSE COUNSEL (Dr. Leer): No further questions.

DEFENSE COUNSEL: You may cross-examine.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION (Captain Shumacker):

Q What was your position in the 501st?

A I was Company Commander of the Third Company.

Q Did you have that same command throughout the offensive?

A Yes.

Q What was the date on this order of the day of the 6th Army?

A I do not remember that.

Q What was the signature on it?

A It might have been Sepp Dietrich or it might have been Dietrich only.

Q Do you know?

A Yes, I know.

Q Well, which one was it?

A I said either Dietrich or Sepp Dietrich.

Q In other words, you don't know whether it was Sepp Dietrich or just Dietrich, is that correct?

A No, not in detail.

Q Have you frequently seen his signature appear both as Dietrich and as Sepp Dietrich?

A No.

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Q How have you seen it appear?

A I don't understand the question.

Q Have you ever seen any other order other than this order of the day prior to this offensive signed by either Dietrich or Sepp Dietrich?

A No.

Q In other words, this is the only order you ever saw signed by Dietrich or Sepp Dietrich, is that correct?

A At that time, yes.

Q Do I understand you to mean that that was the first order that you had ever seen signed either by Dietrich or Sepp Dietrich?

A Yes.

Q And the orders subsequent to this occasion, how were they signed, that is, 6th Panzer Army orders?

A That differed. They were not always signed by Dietrich but occasionally by Kraemer, Chief of Staff.

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Q Did you ever see any order, other than the one that you have mentioned, signed by Dietrich -- Sepp Dietrich -- either prior to this offensive, or after this offensive?

A Yes, after this offensive.

Q How many?

A It might have been ten, it might have been twenty, I don't know exactly.

Q Now, what signature appeared on these orders?

A I don't know for sure.

Q What position in this Armored Group did your Battalion hold?

A The Battalion had the mission to drive behind the First Battalion, and after we came out of the hilly terrain we were to drive ahead to the Maas River.

Q At the time you reached the crossroads south of Malmedy and north of Engelsdorf, what position in the Armored Group did your Battalion occupy?

DEFENSE (Dr. Leer): I object, on the ground that nothing was said about this in direct examination.

PROSECUTION (Captain Schumacher): He has testified that he was in this Combat Group under Peiper, surely he should be allowed to testify concerning what he knows about the issues in this case.

(Birnschein - Cross)

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PRESIDENT: The objection of the defense counsel is sustained.

QUESTIONS BY THE PROSECUTION (Captain Schumacher): (Cont'd.)

Q You say that at this meeting at your Battalion CP at Engelsdorf, on the 15th of December, 1944, the following matters were discussed: the route of march, the order of march, the mission of your Battalion and certain code numbers designating locations, is that correct?

A Yes.

Q Did your route of march take you by the crossroads south of Malmedy and north of Engelsdorf?

DEFENSE (Dr. Leer): I might make the objection again: I think that the question would be allowable, if his mission contained the route through Engelsdorf, but not if he himself was there -- was not there, because nothing was asked about that in direct examination.

LAW MEMBER: The witness has mentioned that his route of march was taken up at the meeting. Now, he can be cross-examined as to anything concerning the route of march. The objection is overruled.

A May I see a map?

Q Have a look at the one on your right, Prosecution Exhibit No. 3. You may come over to the map if you like. Now, I point to a road intersection which is southeast of the town of Malmedy, on Prosecution Exhibit No. 3, and somewhat northeast of Ligneuville, otherwise known as Engelsdorf, and I ask you whether or not your route of march took you by this crossroads?

A No, but I was in Engelsdorf and in Ligneuville.

Q Where, in the column, was your Battalion Commander -- no,

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strike that: where, in your Battalion column, was your Battalion Commander, Von Westenhausen?

A He drove behind the 2nd Company, which drove as the point.

Q Was he with your Battalion all the time, up to the time that you reached Ligneuville?

A Yes, he was always with the Battalion.

Q And you say that your Battalion did not go past this crossroad, is that right?

A No, we went from Engenwald to Thirimont and from Thirimont -- well, in Thirimont we rested for about three hours and then we hit the main road to Engelsdorf.

Q All right, come over here to Prosecution Exhibit No. 3 again and show me how you hit the main road?

(Whereupon the witness approached the map, Prosecution Exhibit No. 3, as requested by the prosecution.)

A (The witness indicated with a pointed, as he made the following remarks:) -- we drove this way from Engenwald to Thirimont and we hit the main road here. Here there is a very steep hill and we had quite a few difficulties there, that's why I remember it.

Q Your Battalion caught up with the rest of Peiper's column on or about the 18th of December, in the vicinity of Cheneux and La Gleize, is that correct?

A We were in Cheneux and the order reached us that we should stop and that the regiment would turn around and our Battalion was to drive back to La Gleize, because of a lack of fuel, and await further orders there.

Q In other words, you had already been through La Gleize, is that correct?

A Yes.

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Q Were you present when Von Westenhagen is alleged to have told Peiper that he shot these prisoners there at the crossroads?

A No.

Q You don't know anything about that report that Von Westenhagen is supposed to have told Peiper?

A No.

Q But you do know that your Battalion did not go past these crossroads?

A Yes.

Q Now, you say that this meeting was held on or about the 10th of December and that a new method of fighting was discussed, is that correct?

A Yes.

Q -- and the points that you mentioned were these: that the Allies had superiority in the air, that you had to be careful about your camouflage, and that you had to move fast?

A Yes.

Q What was new about that?

A New, especially the superiority of the air, which was pointed out again and again.

Q Do you mean to tell this court that it was marvelled at in December, 1944, for the Allies to have superiority in the air?

A No.

Q Well, isn't that what you just said?

A I said that our Regimental Commander instructed us about the Allies superiority in the air and emphasized it.

Q Your Battalion, as I understand it, was organic to Corps, is that correct?

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A Yes.

Q But for this offensive and for some time prior to this offensive your Battalion was attached to Peiper's Regiment, the 1st Panzer Regiment, is that correct?

A Yes; we were attached tactically to Panzer Regiment 1.

Q And you say that you got instructions every month, on the treatment that was to be accorded to prisoners of war, is that correct?

A No, we didn't receive them monthly -- but we instructed our Companies about them monthly.

Q Well, that was a program conducted by the Battalion, independent from any orders, directives or instructions from higher headquarters, is that right?

A No, there was an order from the Supreme Command that these instructions were to be given monthly about this -- and the fact that we had given these instructions had to be made a matter of record.

Q When you -- when did you see any orders from higher headquarters to give these instructions, regarding prisoners of war -- the last order prior to this offensive?

A The last order that I remember seeing was in the instruction sheet that we received around the 1st of December.

Q And you instructed your men that these prisoners were to be marched to the rear, is that correct?

A Yes.

Q And that the wounded were to be left alone and that they would be picked up by the medical units following, is that correct?

A Yes, but the wounded did not remain there alone, with-

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out care.

Q Who was to remain with them? The Company medics?

A When a man of a tank is wounded, the entire crew of the tank falls out.

Q I am talking about enemy wounded; I am talking about enemy prisoners of war?

A The prisoners wounded were taken care of by their own men and they were bandaged by our medics.

Q At what time did you get to Ligneuville on the 17th of December, 1944?

A I was not in Ligneuville on the 17th of December.

Q When did you get there?

A It was on the 18th of December, around nine o'clock.

Q How long did you remain there?

A About ten minutes.

Q Engelsdorf is a very small village, consisting of possibly 20 to 30 houses, is it not?

A Yes it is a street-village.

Q In other words, there is just one street that runs through it, is that right?

A Yes, there is one road that runs through it, but behind the bridge -- that is the way I went -- there is another road that comes into the village from the left.

Q As you entered Ligneuville, on the morning of the 18th, you will recall that as you go into the town you are moving downhill, is that correct?

A Yes, there was a hill down into the town.

Q Do you remember seeing the bodies of eight American prisoners of war that had been shot that afternoon lying over on the left side of the road -- lying just off the embankment?

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A No, I did not see any prisoners of war that were shot.

Q Do you deny that they were there?

A I didn't see any prisoners of war.

PROSECUTION (Captain Schumacher): Nothing further.

Defense (Dr. Hertkorn): A few questions, please.

RE-DIRECT EXAMINATION

QUESTIONS BY THE DEFENSE (Dr. Hertkorn):

Q Did Von Westenhagen drive in a regular automobile, or in a tank?

A Von Westenhagen was in a tank.

Q Do you know if he elected to take the main road, or if he elected to take the difficult terrain which you showed us before.

A Von Westenhagen used the difficult terrain, because it was possible that the 2nd Company, which was ahead of us the day before, used the main street -- but I don't know that for sure.

Q Were you also accompanied by Von Westenhagen in this attack?

A No, I was with my Company.

DEFENSE (Dr. Hertkorn): No further questions.

PROSECUTION (Captain Schumacher):

RE-CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION (Captain Schumacher):

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Q But you said, didn't you, that Von Westenhausen was with your Battalion all the time, until you got to Engelsdorf, is that correct?

A Yes.

Q How long have you been in the SS?

A Since the 25th of April, 1936.

Q What were you in before that? The Hitler Youth?

DEFENSE (Dr. Hertkorn): I object to that question, because this was not touched by direct examination and therefore I ask that the previous question be stricken from the record.

PROSECUTION (Captain Schumacher): If the court please, it is an elementary principle of cross-examination that one may ask any question which goes to the credibility of the witness. It is certainly, furthermore, elementary that the background of a witness and his organizations and associations will reveal his intent or lack of intent in those matters about which he testifies.

PRESIDENT: The objection is overruled.

PROSECUTION (Captain Schumacher): Will you please answer the question, the question was: were you in the Hitler Youth, before you joined the SS?

A Yes.

PROSECUTION (Captain Schumacher): That's all.

PRESIDENT: Anything further by the defense?

DEFENSE (Colonel Everett): Nothing further on re-direct.

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PROSECUTION (Colonel Ellis): Nothing further by the prosecution.

PRESIDENT: Are there any questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE COURT (Law Member):

Q Was the entire 501st Tank Battalion, or just the First Company of the 501st Tank Battalion, attached to the First Panzer Regiment for this offensive?

A No, the entire Battalion.

PRESIDENT: Are there any further questions by the court? Apparently not; the witness is excused.

DEFENSE (Colonel Everett): The defense calls, as its next witness, Colonel Rudolf Lehmann. Dr. Leer will conduct the examination on the part of the defense and the defense does not contemplate recalling this witness.

(Whereupon Colonel Rudolf Lehmann resumed the stand, as a witness for the defense.)

PROSECUTION (Colonel Ellis): The witness is reminded that he is still under oath.

DIRECT EXAMINATION

QUESTIONS BY THE DEFENSE (Dr. Leer):

Q Will you give the court your full name again?

A Rudolf Lehmann.

Q What was your official duty, in December, 1944?

A Chief of the General Staff of the First SS Panzer Corps.

Q How long did you have this position?

A From October, 1944, until March, 1945.

Q Did you ever see a so-called "Experience Report" of the Commanding Officer of the First SS Panzer Regiment, the acc-

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used Peiper?

A Yes, I saw several experience reports of Colonel Peiper's.

Q Do you remember one "Experience Report", in particular, concerning the Eifel Offensive?

A Yes.

Q About when did you read this "Experience Report"?

A It was about the 28th of April, 1945.

Q Was this Regimental order of the 1st SS Panzer Regiment attached to this "Experience Report" -- the order which had been issued by this Regiment before the Eifel Offensive?

A Yes.

Q Do you remember the date that this Regimental order carried?

A No.

Q Do you know the contents of this Regimental order?

A I remember this much of it: that it wasn't very long, and that it did not contain at all as much as was contained in the Army and Corps orders, which I know.

Q But could you say, in spite of that, that this Order of the Day was the order that was issued by the 1st SS Panzer Regiment for this offensive?

PROSECUTION: If the court please, we object to that as very, very leading. We suggest that the witness be allowed to state what the order was.

DEFENSE (Dr. Leer): I'm sorry: I meant to say Order of the Day, but I believe that I said "Regimental Order".

LAW MEMBER: Dr. Leer, the objection is to the fact that the question is a leading question. Will you re-phrase the question.

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DEFENSE (Dr. Leer): Yes, sir. Thank you.

Q Did the Regimental order, about which you just talked, concern the Eifel Offensive?

A Yes.

Q You mentioned, in your earlier examination, that you knew the Order of the Day of Dietrich?

A Yes.

Q Do you remember if the Order of the Day of Dietrich was taken over and shown in the Regimental order?

A No, it contained nothing about it. The main contents of this Regimental order was an order of march of this Combat Group: that I do remember.

Q Was there anything in this Regimental order about the treatment of prisoners of war and civilians?

A No.

Q Would you have noticed it, had it been there?

A Yes, because, as I mentioned before, when we prepared for this offensive, we had quite a few worries about that and nothing was in the order about it --

LAW MEMBER: Colonel Lehmann, will you speak a little louder, so that everybody in the court room can hear you?

WITNESS (Colonel Lehmann): Yes, sir.

DEFENSE (Dr. Leer): We have no further questions.

#### CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION (Captain Schumacher):

Q You say that in this Regimental order, the Army order was not carried in it?

A No.

Q As a matter of fact, there was nothing in this Regi-

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mental order that you saw that was an Order of the Day of Army, Corps, Division, or Regiment, isn't that right?

A No.

Q So, whatever orders of that nature that were passed on to the Regiment you know nothing about, is that true?

A Which kind?

Q Of exhorting troops?

A No, nothing like that was in it.

Q Now, you say that the problem of prisoners of war had been of great concern to you, prior to this offensive, is that right?

A Yes, in that the problem of the transportation of prisoners of war gave us great trouble.

Q And you saw nothing whatever about the transportation of prisoners of war in this Regimental order, did you?

A No.

Q Did it occur to you that perhaps SS Panzer Regiment 1 didn't intend that there would be any prisoners of war to be transported?

A No, but there were other points that were not contained in that order, either.

Q Colonel, you weren't present at the Regimental CP of the accused Feiper, either on the 15th or the 16th of December, 1944, were you?

A No.

Q And you don't know of your own knowledge what transpired there on those two days, do you?

A No.

PROSECUTION (Captain Schumacher): Nothing further.

DEFENSE (Colonel Everett): The defense has nothing fur-

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ther on re-direct.

PRESIDENT: Are there any questions by any member of the court? Apparently not; the witness is excused.

(Whereupon the witness, Colonel Rudolf Lehmann, having been excused, withdrew.)

DEFENSE (Colonel Everett): The defense calls, as its next witness, Dr. Rolf Buchheim. Dr. Leer will conduct the examination for the defense, and the defense does not contemplate recalling this witness.

(Whereupon Dr. Rolf Buchheim was duly sworn as a witness by the President of the Court.)

DR. ROLF BUCHHEIM, a witness for the defense, was sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY THE DEFENSE (Dr. Leer):

Q Please give your name to the court?

A Rolf Buchheim.

Q And your former rank?

A SS Obersturmfuehrer.

Q In which unit of the LSSAH were you?

A I was with the Heavy Battalion, of the SS Panzer Regiment 1.

Q Do you remember the time of the Ardennes Offensive?

A Yes.

Q When did you first learn about this Ardennes Offensive?

A I found out for the first time about it in the afternoon of the 15th of December, 1944.

Q Where did you find out about it?

A I first found out about it in the hunting lodge of the

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forest at Blankenheim.

Q On what occasion did you find out about it?

A I was called into this hunting lodge, together with Untersturmfuehrer Krause and a conference took place there between several of the Commanding Officers. We were then called in at the end of this conference and the problem was discussed with us, as to the communications with neighboring units.

Q Were you present at the meeting of the Commanding Officers of the 1st Battalion?

A Yes.

Q Where was this meeting?

A This meeting also took place in the hunting lodge of the Blankenheim Forest.

Q And who was present?

A The Commander of the 1st Battalion, Poetschke, was present, the Adjutant Fischer, and then there was the Commander of the 1st Company: Kremser, the Commander of the 2nd Company, Christ and the Commanders of the 6th and 7th Companies: Junker and Klingelhoef -- and it is possible that the Platoon Leader was -- the Platoon Leader of the Point was present also, but about this I can't say for certain.

Q Were there any written orders given to the Company Commanders, at this meeting, which they had to sign?

A No; no written orders were submitted there at all: there were only maps.

Q Was the accused, Peiper, present at the meeting of the Company Commanders, which you have just mentioned?

A No, he did not participate in this conference, but it is possible that he went through the room now and then, because

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he also had to leave the house by the way of this anteroom.

Q Did you receive a Regimental order at this time?

A Yes, I received a Regimental order.

Q When did you receive this order?

A The order came late at night, shortly before we moved out.

Q Were you a Company Commander at that time?

A I was in charge of the Staff Company at that time: the Staff Company of the 1st Battalion, because the Company Commander was on furlough at that time.

Q Did you receive the order from anyone to give a certain speech to the Staff Company?

A We were only told to prepare the men for a fast start and, as far as possible, instruct them as to the situation.

Q Did you have the order to instruct your men about prisoners of war and civilians, that is, in respect to the coming offensive?

A We did not receive that order at that time.

Q At this conference, which you attended, was there any insinuation or any demand made, as to prisoners of war, or civilians?

A I heard nothing about that at this conference.

Q Do you remember if, since September, 1944, there were any instructions about the behavior of prisoners of war -- about the behavior toward foreign prisoners of war and deserters, which were given to you?

A Instructions of that type were given often. I don't remember exactly in which period they came, but there were orders out that instructions concerning this were to be given constantly.

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Q What was told, during these instructions, about the treatment of prisoners of war?

A The men were first instructed how to behave themselves, in case they themselves were to fall into enemy hands; they were told that they would have to destroy secret matters and how to do it. Then the men were told what to do, if they themselves were to take prisoners: they were told that these prisoners had to be sent as fast as possible to the units in the rear.

Q Were there any instruction sheets issued to the units about these matters, which had to be attached to the pay-book?

A I remember that instruction sheets of that type were once issued to the reserve troops -- but I've forgotten when that was.

Q Did you ever hear from Company Commanders that were attached to the Combat Group of Peiper that other methods of fighting were to be used, than had been used before?

A No, I never heard anything of that type from any of these Company Commanders.

Q Now, you said at first that you had received this Regimental order?

A Yes.

Q Do you still remember the exact names -- I mean, the exact contents of that Regimental order?

A Yes, I remember the contents well; however, the exact wording I do not remember.

Q Can you give us the content of that Regimental order? Do you know by whom it was signed and the date of issuance?

A This Regimental order was a normal tactical combat order, it contained the usual paragraphs about the position of the enemy, our own position, the route of march, and then there was

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a very detailed and exact list giving the information of our various units. These were the main contents of this order; and then it contained the usual paragraphs about supply and communication and, I think, also about signals and the position of the Commanding Officer.

Q Do you know what date this order carried?

A I don't remember that.

Q Do you know who signed it?

A It was signed by Peiper.

Q Did this order contain any other instructions, with the exception of those things that you have already told us?

A With the exception of those tactical instructions that I have just mentioned, there was nothing else in this order.

Q For what reason, or why, do you remember the contents of this Regimental order so exactly?

A First of all, it was the only Regimental order which I received during the entire offensive and I had to pay close attention to it, because I was responsible that the necessary communications were to be carried out, whenever this was necessary.

DEFENSE (Dr. Leer): No further questions.

PROSECUTION (Captain Schumacher): If it please the court, we have many questions on the cross-examination of this witness, and I wonder if the court would mind adjourning a few minutes?

PRESIDENT: The court will recess until 1330.

(Whereupon the court, on the direction of the President, recessed until 1330 hours.)

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CAMP DACHAU, GERMANY

24 June 1946.

AFTERNOON SESSION

(Whereupon the Court reconvened at 1330 hours.)

PRESIDENT: Be seated. Court will come to order.

PROSECUTION: Let the record show that all members of the Court, all members of the Prosecution, with the exception of Lt. Col. Crawford, who is absent on business of the Prosecution, and Capt. Byrne, who has been excused by verbal order of the Commanding General, all members of the Defense with the exception of Capt. Narvid, Mr. Walter, Dr. Rau, and Dr. Wieland, who are absent on business of the Defense, all of the Defendants, and the Reporter, are present.

DEFENSE COUNSEL: The Defense recalls Lt. Rolf Buchheim.

ROLF BUCHHEIM, a witness for the accused, having been previously sworn, resumed the witness stand and testified further, through an interpreter, as follows:

PRESIDENT: Remind the witness he is still under oath.

PROSECUTION: The witness is reminded that he is still under oath.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q . What is your first name?

A My first name is Rolf.

Q Do you have a middle name?

A Rolf Carl Otto Ludwig Franz.

Q You are sure your name is not Heinz?

A I am sure of that.

Q You were in the headquarters company of the 1st Panzer Regiment; is that correct?

A Yes.

(Cross - Buchheim)

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Q You were an Untersturmfuehrer, that is a 2nd lieutenant, during the time of this offensive?

A Yes.

Q And your headquarters company commander was a man by the name of Bosbach, is that correct?

A Yes.

Q Did he command the headquarters company during the offensive or during any of the offensive?

A In command of the headquarters company until I was wounded on the 23rd. What happened later on I don't know.

Q Do I understand you to say that you commanded the company yourself until you were wounded on the 23rd? Is that correct?

A Yes. I commanded the company as a deputy of Bosbach.

Q Where was Bosbach?

A Bosbach was on a furlough; I believe his mother or somebody-- someone of his relatives had died.

Q So you were in command yourself of Headquarters Company on the 15th December, 1944?

A Yes.

PROSECUTION (Capt. Shumacker): Will the court have the accused wearing No. 41 stand?

PRESIDENT: No. 41 stand up.

Q Do you know this accused who is standing?

A Yes.

Q What is his name?

A It is Oberscharfuehrer (T/Sgt.) Oonmann.

Q Was he in your company during the time of the Eifel offensive?

A Yes.

Q I read you a paragraph from Prosecution's Exhibit No. P-75 which is the statement made under oath by the man you have just identified as Oonmann. "On the evening of 15 December 1944 Untersturmfuehrer Heinz Buchheim of my company delivered a speech to our company,-- to the members of Headquarters Company of the first battalion, who par-  
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tiopated in the Eifel Offensive. In this speech Untersturmfuehrer Buchheim pointed out, among other things, that the offensive ahead would be decisive. He also said that we should not take prisoners on account of the importance of the offensive, as we did not have sufficient men to guard them." Was there any other Untersturmfuehrer Buchheim in the Headquarters company at that time, on the 15th of December 1944?

A No, there was no other Untersturmfuehrer BUCHHEIM.

Q I read you another portion of Prosecution's Exhibit No. P-75, being a statement executed under oath by the accused Paul Oehmman. Or, rather, two paragraphs. "On the 17th December 1944--it was just starting to get dark--I saw, near the village entrance in Engelsdorf about eight American prisoners of war standing on the right side of the road in front of a house. All these prisoners wore American uniforms; however, they did not have steel helmets on any longer. Their hands were either clasped behind their neck or raised above their heads. Whether these prisoners stood in front of the driveway to a garage I cannot tell any longer. When I saw these prisoners I went to an SPW standing in the immediate vicinity of the house in which sat Untersturmfuehrer HERING, Platoon leader of the 9th Panzer Pioneer Company. When I saw the prisoners I remembered that immediately before departing from Engelsdorf Sturmbannfuehrer Poetschke shouted something to me which I could not make out. When I saw the prisoners, the shout of Sturmbannfuehrer Poetschke (which possibly could have meant that prisoners of war were to be bumped off) occurred to me. I recall recall that Untersturmfuehrer Buchheimsaid two days previously that we should not take any prisoners. Moreover, I was in a bad mood because I received from Untersturmfuehrer Kurt Kramm one hour before the order to remain in Engelsdorf, to guard about thirty American vehicles captured in Engelsdorf, as well as eight American prisoners of war. These eight prisoners of war, however, are not identical with those I saw at the (Buchheim - cross).

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village entrance and shot at the cemetery. The eight prisoners which I received from Untersturmfuehrer Kramm waited farther north of the village entrance; they were still there during the time when I shot the prisoners who I found at the village entrance." Are you the Untersturmfuehrer Buchheim who made a speech to Oehmann and other men under your command on the 15th of December 1944?

A I am the Untersturmfuehrer (2nd Lieutenant) Buchheim, but I did not make a speech on the 15th. I had only collected the remainings of the company what was left from the reconnaissance battalion and the signal platoon in order to discuss technical problems with them and to give them orders for the attack to be expected.

Q Was Untersturmfuehrer Krauser under your command during this offensive?

A No, at that time Untersturmfuehrer Krauser was regimental signal officer and in that capacity my superior.

Q Did Oehmann ever report to you about these prisoners of war that he mentions having shot, in Prosecution's Exhibit P-75, part of which has just been read to you?

A No, Oehmann did not make a report about that.

Q Was Oehmann among those men that you say you trained well in the care and treatment of prisoners of war prior to this offensive?

A( I can no longer say today if Oehmann took part in these instructions.

Q Well, normally he would have. He was in your company, was he not?

A Yes, but this company was not the usual company, it only consisted of a signal platoon and a reconnaissance platoon; therefore of very few people.

Q Was Oehmann in either your signal or your reconnaissance platoon?

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A Oehmann was the leader of the reconnaissance platoon.

Q Well, wouldn't the leader of the reconnaissance platoon be familiar with the instructions given the men in that reconnaissance platoon, whether he attended the courses of instructions personally or not?

A Of course he had to know it.

Q In other words, if he had killed any prisoners of war at Engelsdorf, what you said prior to the offensive could have had no influence or bearing or account there whatsoever; is that your position?

DEFENSE COUNSEL (Dr. Leer): May I object to that? I think it is a hypothetical question and for that reason is not proper.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION (Capt. Shumacher):

Q Did you say anything prior to the offensive to Oehmann or to other men in your company that could have encouraged them, or given them permission to shoot prisoners of war during this offensive?

A No.

Q As platoon leader of the reconnaissance platoon, did Oehmann himself participate in the training of the men in his platoon as to the treatment to be accorded prisoners of war when captured?

A The question is not quite clear.

PROSECUTION (Capt. Shumacker): Will you read the question back? I think it is clear.

(Whereupon the question was read by the reporter.)

PROSECUTION (Capt. Shumacker): Do you still not understand the question?

A I understand the question this way: Whether Oehmann himself participated in the training?

Q Yes, that is the question.

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A And how he was to behave himself towards the prisoners of war and in the case--how he was to behalf himself as a prisoner of war, or in the case he would take prisoners of war.

Q Now is your answer to my question that he did participate in the training, that he did not participate in the training, or that you do not know whether he did or not?

A I don't know any more whether or not he participated in the training.

Q That is all I want to know. Now this meeting that you attended at the forester's house on the 15th of December, at what time of day was that meeting held?

A The conference of company commanders took place late in the afternoon. I don't remember the exact time.

Q That was the only meeting you attended; is that correct?

A I already stated in the morning that at the end of a conference of company commanders I still had to answer some tactical questions.

DEFENSE COUNSEL (Mr. Strong): There might be a question. Meeting of commanding officers, not company meeting.

INTERPRETER: Would you correct this, please. Not meeting of the company commanders, but meeting of commanding officers.

QUESTIONS BY PROSECUTION (Capt. Shumacher):

Q You attended a meeting in the morning, is that correct, on the 15th of December, 1944?

A No.

Q You attended one meeting, then, late in the afternoon of the 15th, is that correct?

A Late in the afternoon of the 15th, yes.

Q And at that meeting the following were present: Poetschke, the commanding officer of the 1st SS Panzer Battalion?

A Yes.

Q Fischer, his adjutant?

A Yes.

Q Krenser, the commanding officer of the 1st Panzer company?

A Yes.

Q Christ, the commanding officer of the 2nd company?

A Yes.

Q Junker, the commanding officer of the 6th Panzer Company,  
and Klingelhoefser, the commanding officer of the 7th Panzer Company?

A Yes.

Q And you yourself?

A Yes.

Q Now, again, the question I asked you a few minutes ago.

What other than the meeting that was held attended by the men just  
named, did you attend yourself on the 15th of December, 1944?

A I already said that I attended the end of a conference of  
commanding officers which took place prior to this conference.

Q What people were present at that meeting of commanding  
officers, the end of which you attended, just before this meeting  
took place?

A The following were present: Peiper, Poetschke and, I  
think Diefenthal and several other commanding officers which I  
didn't know.

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Q Did you just happen to be in on the end of that meeting or were you supposed to have attended from beginning to end?

A No, we had to stay until the end and then we were called in in order to answer secret tactical questions.

Q What Peiper told Poetschke and Diefenthal and anyone else who was present during that meeting you do not know, do you?

A No, I don't know that.

Q Where have you been held in custody up until the time of your appearance as a witness in this case?

A In the camp of Moosburg.

Q Were you carried as a prisoner of war by the name of Rolf Buccheim or by your full name that you gave a few minutes ago?

A I don't know under which name I am carried.

Q You filled out a form FM-19 that all prisoners fill out, did you?

A Yes.

Q Well, do you know what name you put on that form?

A I certainly put down the name by which I am called, Rolf, and probably all of the names.

Q In what type of vehicle did you travel during this offensive?

A I was travelling in an armored signal car.

Q In what part of the armored column of the Kampf Group Peiper did you travel?

A Most of the time I travelled between the advance column and the main column next to Poetschke.

Q Were you with Poetschke at the crossroads south of Malmedy between one and two o'clock on the afternoon of

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17 December 1944.

MR. STRONG: Objection. May I call the Court's attention to paragraph 17 of the Military Government Rules which says that any person other than the accused may be required to testify before a Military Government Court but no witness should be required to incriminate himself. I don't know if this applies here.

LAW MEMBER: In that connection, if the witness feels that the answer to the question will incriminate him, he may so state and, of course, refuse to answer the question. However, it is up to the witness.

CAPTAIN SHUMACKER: I believe, if the Court please, that the rule also states that there is no obligation to warn the witness of his rights and that he can refuse to testify to anything that might incriminate him.

LAW MEMBER: The normal procedure is for the Court to notify the witness that he does not have to answer the question if he feels that it will incriminate him, and that is a personal right of the witness and no one else.

CAPTAIN SHUMACKER: Does the witness want to testify as to what he saw at the crossroads south of Malmedy on the 17th of December 1944 or not?

DR. LEER: May I object to that question on the grounds that the witness already testified that he was not present at the crossroads south of Malmedy?

CAPTAIN SHUMACKER: If he did I did not hear that answer.

LAW MEMBER: I believe it was the witness before this one, I am not sure.

(Buchheim-Cross)

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CAPTAIN SHUMACKER: We can ask the witness.

Did you testify that you were not at the crossroads south of Malmedy on the afternoon of 17 December 1944?

THE WITNESS: I was not asked about that.

DR. LEER: I withdraw the objection.

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q I am asking the witness now, were you at the crossroads south of Malmedy on the afternoon of 17 December 1944?

A I don't know which crossroads you are talking about.

Q If the witness will come over here I will be glad to show you.

(Whereupon the witness left the witness stand and took a position near the map, Prosecution Exhibit Number 3.)

Q To orientate the witness, Prosecution is pointing to its Exhibit P-3. To further orientate the witness, I now point to the town of Blankenheim on Prosecution Exhibit P-3 and the town of Dahlem and the town of Mallschlag and the town of Losheim and the town of Lanzerath and the town of Honsfeld and the town of Buellingen and the town of Schoppen and the town of Onderval and the town of Thirimont and the crossroads I am referring to is here at a point southeast of Malmedy and northeast of Lignouville, otherwise known as Engelsdorf. Does the witness now know the crossroads that I am talking about?

A Yes.

Q Will you please take the stand again?

(Whereupon the witness resumed the witness stand.)

Will you tell the Court whether or not you were at that

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crossroads that has just been pointed out to you on Prosecution Exhibit P-3 on the afternoon of the 17th of December 1944?

A Of course; I was travelling on this road in my car as all the other cars of the combat group. I drove through in my car very fast since I had remained behind the advance group and met the combat group again at a place where the road makes a right angle about 400 meters in front of the town of Engelsdorf. There we stopped since part of the combat group had met enemy resistance and I had to stop.

Q In other words, Lieutenant Buchheim, your memory is very dim as to what you saw and heard when you went between Thirimont and a point 400 meters north of Engelsdorf, is that right?

A On this road a column of American vehicles was standing.

Q Let me interrupt you. Is your recollection coming back to you now as to what you saw at the crossroads?

A On the crossroads proper I did not see anything.

Q But you were at the crossroads, is that right?

A Yes, I travelled through it.

Q And where were these vehicles that you saw with respect to the crossroads?

A They were standing on the road from Malmedy to Engelsdorf. I can no longer tell the exact distance from the crossroads. We had travelled the other way and then turned around on the main road.

Q In other words, when you got to the main road leading from Malmedy to Engelsdorf, you made a left hand

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to proceed southwardly, is that not correct?

A Yes.

Q And these vehicles that you saw were then parked on the righthand side of the road headed southwardly towards Engelsdorf?

MR. S TRONG: Objection. The question is clearly leading.

LAW MEMBER: Mr. Strong, on cross examination leading questions are permitted.

QUESTIONS BY PROSECUTION:

Q Where were you when these prisoners of war were shot there, Lieutenant Buchheim?

A Which prisoners of war?

Q You did not see any prisoners of war there at the crossroads, did you?

A No.

Q Alive or dead?

A Not at all.

Q And your eyesight is good, Lieutenant Buchheim?

A Yes.

Q About what time of day was it when you got to this crossroads?

A It might have been late in the afternoon.

Q Were any German vehicles there at the time, -- tanks, SPW's or other vehicles?

A I can't say that exactly.

Q The lights on your vehicle were not burning, were they?

A No, it was still light.

Q Still light?

(Buchheim-Cross)

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A Yes.

Q As you made this left turn, did you see a house on the righthand side of the street after making the left turn?

A I cannot remember that there was a house on this crossroads.

Q Did you see any house or other type of building burning at the time you made this left turn at the crossroads?

A I don't know that any more.

Q Did you not just say you did not even see a house there?

A I can no longer remember to have seen a house.

Q You were not in a tank, were you?

A Yes, I was in an armored signal car.

Q In other words, a half-track, a SPW?

A Yes, a half-track, SPW.

Q There was nothing to prevent your seeing prisoners of war there if they were there, was there?

A In the car?

Q If there were on the righthand side of this road immediately south of the intersection some 20 to 30 meters from the road, 80 to 100 bodies of American prisoners of war you would certainly have seen them, would you not?

A If I would have looked into this direction I must have seen them because my eyesight is good.

Q Lieutenant Buchheim, this is astounding news to you right now that there were any prisoners of war killed south of Malmedy on 17 December 1944, is it not?

A Yes.

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Q This is the first time you ever heard about it, just when I mentioned it a minute ago?

A Yes.

CAPTAIN SHUMACKER: That is all.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (DR. LEER):

Q When did you get to the Headquarters Company of the 1st Battalion?

A I came to the Headquarters Company in September 1944.

Q One other question. When you were travelling in your signal car, were you constantly looking out of the car or did you have other duties in your car?

A During the whole trip we had to perform signal communication and my main duty during this trip was the supervision of the whole signal company communications.

Q You just said you were travelling behind the point. In which place of the marching columns were you?

A I already said that most of the time the point was travelling between the advance element and the main group.

Q Your attention was just drawn to a crossroads. Do you remember whether the first vehicles of the group were travelling by way of those crossroads without stopping?

A Do you mean the American vehicles?

Q No, the German vehicles which were ahead of you?

A I have already said that I had remained behind and the vehicle ahead of me was the tank of Foetschke and I couldn't see it any more. I only met this tank again shortly before we

(Ducheim-Redirect)

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reached Engelsdorf.

DR. LEER: No further questions.

REGROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q You say normally you were travelling between the advance element and the main body, is that correct?

A Yes.

Q By advance element, what do you mean. Are you talking about the point platoon or are you talking about the whole combat group consisting of the 1st Panzer Battalion and the 3rd Panzer Grenadier Battalion?

A I am talking about the entire combat group.

Q In other words, normally you were travelling behind the entire combat group, is that correct?

A Not behind the entire combat group but behind the advance element combat group.

Q Is the advance element that you are talking about, Lieutenant Buchheim, just the point platoon?

A No, that is the so-called leading platoon. Then the companies follow Panzer Companies, SPW Companies, etc.

Q And you were between the advance element, as you call it, and the Panzer Companies and the SPW Companies?

A I was between the advance element and the rest of the combat group, the so-called main body.

CAPTAIN SHUMACKER: If the Court please, I am sorry I have to take so much time of the Court but I want

(Buchheim-Recross\*)

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to find out where the witness was in this column and it is not clear to me.

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q What vehicles of what units were ahead of you in the column?

A Ahead of me in the column there were vehicles of the Panzer Company, as well as vehicles of the Diefenthal Battalion and the Panzer Pioneer Company.

Q Were all the tanks and SPW's of the Pioneer Company Diefenthal's Battalion and the Panzer Battalion ahead of you or just a portion of them?

CAPTAIN SHUMACKER (To Interpreter): Just a minute, I don't think you interpreted all of my question.

(To Reporter): Will you please read the question, Miss Reporter?

(Whereupon the last question was read by the reporter.)

THE WITNESS: Only a portion was ahead of me.

QUESTIONS BY PROSECUTION: (CAPTAIN SHUMACKER)

Q You were riding right behind the Battalion Commander, Sturmabannfuhrer Poetschke, is that correct?

A In this moment of the attack I was driving right behind Poetschke.

Q When did Poetschke's tank increase the interval between his tank and your SPW and you lost sight of him? When was that?

A The interval increased shortly before the town after Engelsdorf, -- Thirimont, or something like that.

Q You mean before Engelsdorf instead of after Engelsdorf, do you not?

(Buchheim-Recross)

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Q After Poetschke's tank got out of your sight there was no other tank that you could see or no other German vehicle of any type that you could see in front of you along the road, is that correct?

A No, there was no other vehicle there.

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Q How long do you think it took you from Thirimont to where you caught up with Poetschke's Panzer? I think you said approximately four hundred meters North of Engelsdorf.

A I can't say exactly.

Q Did you stop anywhere or did his vehicle just travel more rapidly than yours?

A I had to stop several times, because it was very difficult to maintain the signal communication in a travelling vehicle.

Q And how many stops do you think you made between Thirimont and Engelsdorf?

A At best, two times.

Q And when you stopped, you stopped just long enough to establish communication and send and receive a message, is that right?

A Yes.

Q At no time between Thirimont and Engelsdorf did you hear any shooting whatever, did you?

A Yes, the shooting went on constantly, since we had met the enemy.

Q Where did you see the enemy?

A I, myself, didn't see the enemy any more, only the effect of the enemy.

Q What type of shooting did you hear between Thirimont and Engelsdorf?

A That was anti-tank and artillery fire.

Q Was the fire from German anti-tank weapons or artillery pieces, or fire from enemy pieces of the same nature, or could you tell?

A That is very hard to distinguish with the ear. Most (Buchheim - Recross)

probably shooting went on from both sides.

Q I am asking you now what you know. Do you know whether it came from your enemy or from your own pieces?

A I don't know that.

Q Did you see any American artillery pieces or anti-tank pieces anywhere between Thirimont and Engelsdorf?

A Between Thirimont and Engelsdorf I only saw the American vehicles standing on the road, and later on in Engelsdorf proper, a Sherman.

Q When did Bosbach go on furlough and leave you in command of your Headquarters?

A It was a few days before we moved out of our quarters in Ahrem.

Q Was that in the month of December, or was it in November, or when was it?

A According to my estimate it was about the 11th or 12th of December.

CAPT. SHUMACKER: No further recross.

DEFENSE: No further redirect.

PRESIDENT: Any questions by the Court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Did Gruhle have you read and sign a paper at the meeting of Company Commanders in Blankenheim Woods?

A We had to sign a document, which obliged us to be silent about what was discussed at this meeting until the attack was started. I don't know whether Gruhle submitted this document to me, but I don't think so since I was responsible to the 1st Battalion.

PRESIDENT: Any other questions?

PROSECUTION (CAPT. SHUMACKER): One other question, please.

(Buchheim - Recross)

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REGROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPT. SHUMACKER):

Q Was it not Fischer who submitted this paper, the adjutant of the battalion, that you and the other officers signed?

A That is possible.

PROSECUTION (CAPT. SHUMACKER): Nothing further.

PRESIDENT: Any other questions by the Court? Apparently not, the witness is excused.

(Whereupon the excused witness withdrew.)

DEFENSE: The Defense calls as its next witness, Walter Kropp. Dr. Leiling will conduct the direct examination on behalf of the Defense, and the defense does not contemplate recalling this witness.

WALTER KROPP, called as a witness for the Defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (DR. LEILING):

Q Will you state your name to the Court.

A Walter Kropp.

Q Your age?

A Twenty-three years old.

Q Did you ever belong to the Waffen-SS?

A Yes.

Q Are you presently a prisoner of war?

A Yes.

Q Where are you being held in custody?

A Camp Dachau.

Q Which unit did you belong to prior and after the Eifel Offensive?

A Headquarters Company of the Panzer Regiment No. 1.

Q Which position did you hold before and after the Eifel

(Kropp - Direct)

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Offensive?

A Second clerk in the staff of the Regiment.

Q What were your duties as second clerk?

A I was in charge of the registration and the distribution of orders.

Q Did you ever learn anything about an order with reference to the Eifel Offensive?

A Yes.

Q When was this order written in the regimental orderly room?

A During the night from the 15th to the 16th of December.

Q Did you see how it was written?

A Yes.

Q Who wrote it?

A Unterscharfuehrer (Sergeant) Evers.

Q Who was Sgt. Evers?

A He was the first combat clerk.

Q Was that correct, "combat clerk" you said?

A Yes.

Q Did you read the just mentioned order?

A Yes.

Q On which occasion did you read it?

A I put it into the envelopes in order to send them to the various units, and wrote the addresses.

Q How long was this order?

A Two typewritten pages.

Q Do you remember the contents of the order?

A Yes.

Q What was the contents?

A It contained the march order of the armored units from the assembly area.

(Kropp - Direct)

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Q Tell the Court everything you know about this order.

A It contained the march order of the armored units in the assembled area and the composition of the various units, and the march order.

Q Did it say anything, this order, about the treatment of prisoners?

A No.

Q Was there anything contained with reference to the treatment of Belgian civilians?

A No.

Q Did it say anything about the following, that a "wave of terror and fright had to proceed the troops?"

A No.

Q When was this order issued?

A During the night from the 15th to the 16th of December.

Q When, during the night?

A I don't know that exactly.

Q Approximately?

A At midnight.

Q Since when did you work as a second clerk with the regiment?

A Since August 1943.

Q Subsequently to that, did you participate in the Eifel Offensive?

A No.

Q Why not?

A I was with the supply unit .

DEFENSE (DR. LEILING): No further questions.

DEFENSE: You may cross.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (MR. ELWITZ):

Q Kropp, do you know where Evers is today?

(Kropp - Cross)

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A He is probably at home.

Q Do you know where the copies of the regimental order that were published went to? I will withdraw that and make it clearer. You stated that the regimental orders were placed in envelopes and sent out. Do you recall that?

A Yes.

Q To whom were they addressed?

A To the units of the armored troops; to the units which were under its command.

Q Do you mean to the commanding officer of each of the units?

A Yes.

Q Who was your Company Commander?

A 1st Lt. Maehler.

Q Did he give a speech to your company before the offensive?

A No.

Q You are sure of that?

A Yes.

PROSECUTION (MR. ELOWITZ): That is all.

DEFENSE: Nothing further.

PRESIDENT: Any questions by the Court? Apparently none, the witness is excused.

(Whereupon the excused witness withdrew.)

DEFENSE: The Defense calls as its next witness Capt. Ernst Otto. Dr. Leiling will conduct the direct examination on behalf of the Defense, and the Defense does not contemplate recalling this witness.

ERNST OTTO, called as a witness for the Defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (DR. LEILING):

Q State your name to the Court.

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- A Ernst Otto.
- Q What is your first name and which is the family name?
- A My last name is Otto.
- Q Did you ever belong to the Waffen-SS?
- A I am a member of the Waffen-SS since 1940.
- Q What was your last rank in the Waffen-SS?
- A Hauptsturmfuehrer (Captain).
- Q Are you presently a prisoner of war?
- A Yes.
- Q Where are you being held in custody?
- A In Hallein, at Salzburg, Austria.
- Q How did you get to Dachau?
- A I was called to Dachau last week.
- Q Did you ever belong to the 1st SS Panzer Regiment?
- A Since May 1943.
- Q Which position did you hold in this regiment during the Eifel Offensive?
- A From October 1944 until April 1945, I was in charge of the supply company of the 1st SS Panzer Battalion.
- Q Who was in charge of this Company?
- A The Company belonged to the 1st Battalion, to Poetschke.
- Q Was it only in charge of the office supply of this 1st Battalion?
- A No, it was responsible for the supply of the entire armored group.
- Q Where was your C.P. located before the Eifel Offensive was started?
- A In Biesheim.
- Q Where was your Command Post on the 14th of December, 1944?
- A On the 14th of December I was in the Blankenheim Forest.
- Q Do you remember a conference which took place on the 15th

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of December?

A Yes, on the 15th of December a supply conference took place.

Q Did you participate in this conference?

A Yes.

Q To which time of the day did it take place?

A It was late in the afternoon, at about 1600 hours.

Q Where?

A In the Regimental Command Post.

Q Who was present at this conference?

A The following persons were present at this conference, the Regimental Adjutant, Gruhle, the Regimental Physician, Sickel, then the Regimental Engineer, Guelden, the Commander of the Ordnance Company, Stoeckel, the Adjutant of the Battalion No. 501, Kalenowski, the Commanders of the Supply Companies, 1st Lt. Vogt, 1st Lt. Luedecke, and myself. I don't know exactly whether or not 2nd Lt. Fischer was present too.

Q Who conducted this conference?

A Capt. Gruhle.

Q Do you know Capt. Gruhle?

A Yes.

Q Would you be able to recognize him if you were to see him today?

A Yes.

Q Would you take a look at the accused and find out who he is?

A No. 19.

Q What happened at this conference?

A At this conference the maps were shown to us and the route of our march was pointed out to us, the code names for certain towns of certain places in the area were drawn into the map, and (Otto - Direct)

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subsequently Capt. Gruhle talked to us about our position in our orders.

Q Did Gruhle read from an order?

A No.

Q What did he do?

A He explained the situation to us on the basis of notes and maps.

Q Was there anything said about prisoners of war at this conference?

A No.

Q Which general instructions existed with your unit with reference to the taking of prisoners of war?

A Prisoners of war were to be taken to the G-1, without any further interrogation.

Q Were there any other orders?

A The weapons were to be taken away from the prisoners and the prisoners were to be evaluated. Nothing else was ordered.

Q How long did the conference last, the one you just mentioned before?

A The conference lasted for about two hours.

Q Was Gruhle present all the time?

A He left the room several times when the drawings in the map were made, for a short while.

Q Do you know whether or not there were other conferences on the Command Post at the same time when this conference took place?

A At the beginning of our conference there was a meeting of commanding officers. When the meeting of the Commanding Officers had terminated, the Commanding Officers left the room and we went into the room and the conference was continued.

Q During this conference, did Gruhle say anything about the (Otto - Direct)

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treatment of Belgian civilians?

A No. There was no talk about civilians.

Q Did you ever receive an order in writing about that what you heard already?

A Yes. During this conference we were told that the order in writing in the first place, the exact march order, would be issued in the evening.

Q When did you receive the order?

A Shortly before midnight.

Q Where?

A In the evening in the Regimental Command Post.

Q How was that possible?

A My Command Post was located about 50 meters away from the Regimental Command Post, and in the evening I was at the Regimental Command Post several times.

DEFENSE (DR. LEILING): I have a few more questions, but this would be a good time to stop.

PRESIDENT: The Court will recess until 1530.

(Whereupon at 1500 hours the Court recessed.)

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If the court please, let the record show that all members of the court, all members of the prosecution with the exception of Lt. Col. Crawford, who is absent on business for the prosecution, and Captain Byrne, who has been excused upon verbal order of the Commanding General, all members of the defense with the exception of Mr. Walters, Dr. Rau, Dr. Wieland, who are absent on business for the defense, all of the defendants and the reporter are present.

DEFENSE COUNSEL: The defense recalls Captain Ernst Otto.

ERNST OTTO, a witness for the defense, having been recalled, resumed the stand and testified further through an interpreter as follows:

PROSECUTION: The witness is reminded that he is still under oath.

RE-DIRECT EXAMINATION

QUESTIONS BY DR. LEILING:

Q You have talked about the Regimental Order before recess. Did you read the contents of this order -- Regimental Order -- exactly?

A Yes.

Q Can you tell the court the substance of that order?

A Yes. The Regimental Order consisted of the enemy's position, the only position as known; the mission was stated briefly, the neighboring units and the route of march, the time for jumping off, the starting point, the Officer in charge of starting, the formation and march was the main subject of the whole order and was set down in detail. The next point was the supply measures taken, the care of the wounded, the location for the Ordnance Company, communications, the meaning of flares and

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signals, and the position of the Commanding Officer.

Q Was anything written in that order about treatment of prisoners of war?

A No.

Q Did this written order have anything to say about the treatment of Belgian civilians?

A No.

Q Do you know of any order, being written or oral, or only a directive, which was issued in connection with the Eifel Offensive and had a bearing on the treatment of prisoners of war or civilians?

A No, I don't know.

Q To your knowledge, was it ever said unofficially that prisoners of war were to be shot?

A No.

Q Or that Belgians civilians were to be shot?

A No.

Q Was that written Regimental Order which you have just mentioned a secret order?

A Yes, I think it was classified "Top Secret".

Q Did you have to sign a receipt for it?

A Yes.

Q Who did you have to receipt for it?

A At the Regimental C.P.

Q I should like to draw your attention to December 16; did you, on that day, participate in any other conferences which the subject of which was the Eifel Offensive?

A The Company Commanders meeting of the First Battalion was held shortly after midnight.

Q Were you present there?

A I was present there for about 45 minutes until supply matters were discussed.

Q What did you then do?

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A I then went back to the Company in order to take measures for moving out.

Q Who held that meeting?

A Major Poetschke.

Q Who participated in that meeting?

A All Company Commanders; that is, Christ, Junker, Klingelhoef, Kraenser, the Adjutant Fischer, and I.

Q Did Sternebeck and Ochmann take part?

A I can't say for sure.

Q What was said at that meeting?

A The Regimental Order was discussed thoroughly and particularly the march formation.

Q Was that all?

A To introduce the Order Poetschke said a few words about the meaning of the offensive.

Q In order to exclude any doubt, could you reproduce these words as clearly as possible?

A I can reproduce the substance of these sentences.

Q Do that please?

A Poetschke said in his curt military manner: "Obviously we all realize that this offensive is to bring the decision to the west and last reserves are being used for that purpose. Our mission is to break through as rapidly as possible without paying any attention to the rest of our flanks, and our goals will be reached under any conditions. The success will depend mainly on the energy and attacking spirit of the tanks. I, therefore, require every man and officer to do his utmost. "

Q In the course of this conference did Poetschke, or anybody else, mention the treatment of prisoners of war?

A No, it was not mentioned.

Q Was the treatment of civilians discussed?

A No, nothing was said about civilians either.

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Q Was Peiper present at this meeting?

A No, but it might be possible that he went through the room because the meeting took place in the Regimental C.P.

Q Did Peiper talk to you?

A No, Peiper didn't talk.

Q Was Gruhle present?

A No, Gruhle was not present.

Q Where did you go after the conference?

A To the Company.

Q Do you know if the conference continued after you left?

A Yes, the organization of the marching columns and the behaviour during the attack were to be discussed specifically.

DEFENSE COUNSEL (Dr. Leiling): No further questions.

DEFENSE COUNSEL: You may cross-examine.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Captain Otto, how long did you stay after this supply meeting was over?

A Sunday afternoon, 15th of December. I left after the conversation ended.

Q Immediately after the conversation ended?

A Immediately after the completion of the conference.

Q Did you attend the tactical meeting that took place before the supply meeting?

A No.

Q You don't know what took place there?

A No, I don't know.

Q What specific instructions did Gruhle give you as to the location of fuel dumps, ammunition dumps and food dumps at the meeting?

A That was mentioned. The first refueling was to take

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place in the Schmidtheim Forest; if the situation would permit it again at the railroad station in Loschein; and the next refueling was to take place in the area of Stavelot.

Q Did you follow along the route of march with the combat team?

A No, I could not follow the combat group because the roads were jammed to such an extent that we arrived at the Loschein railroad station on the 17th.

Q What time did you arrive there?

A Shortly before noon at the Loschein railroad station. I then refueled the battalion 501 which was about 12 o'clock.

Q Did you go forward from there?

A From there I proceeded to Lanzerath and at Lanzerath opened a forward message center, and returned to Schmidtheim in order to requisition more fuel.

Q Did you go forward beyond Lanzerath at any time during the offensive?

A Yes, on the 18th I was in Honsfeld. In Honsfeld I found out that the road for marching was not to be used for wheeled vehicles, and on the 19th I went past Lanzerath to  
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DEFENSE COUNSEL (Dr. Lelling): If it please the court, I should like to object to this line of questioning. It was not part of the direct examination of this witness.

PROSECUTION: If the court please, he testified about the orders, on the route of march, the mission, and a great many other things. He's testifying of his own knowledge. He testified all about the preparations and I believe he qualifies to testify on cross-examination about anything he knows about this particular offensive. It does not necessarily have to be brought out on direct examination.

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DEFENSE COUNSEL (Dr. Leiling): If it please the court, he testified to issues of order, not to his own participation in the whole Eifel Offensive.

PRESIDENT: The objection is sustained.

QUESTIONS BY PROSECUTION (Continuing):

Q Was there any other officers in the Supply Company, other than yourself?

A Yes.

Q Who was that?

A Lt. Sethean and Haras, the Administrative Officer, and the Battalion Engineer, Diefenthal.

Q Do you know where the most forward supply dump was established?

A No supply dump was opened up but the foremost vehicles were five kilometers in front of Stavelot.

Q Did Gruhle give you any instructions about prisoners of war?

A No.

Q Did you inform the men to man the supply dumps from your Company?

A No, the members of the Company were only drivers and skilled workers.

Q Did your driver have any instructions whatever about prisoners of war?

A No.

Q Do you know of any empty vehicles that came back from the front other than your supply vehicles?

A No, I didn't see any empty vehicles.

Q When did you receive this secret order -- Regimental Order -- you referred to?

A Shortly before midnight. It must have been about 2300 hours.

(Otto - Recross)

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Q Then you went back to the Command Post and signed a receipt for it; is that the way it was handled?

A No, I signed the receipt at the Regimental C.P. That's where I received the order.

Q Was the order in an envelope?

A No, I think I received it from the Chief Clerk.

PROSECUTION: No more cross-examination.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Leiling):

Q Did you say in your previous testimony that simultaneous with your supply meeting another meeting took place?

A In the Commanding Officer's room -- the meeting of the Commanding Officers took place at the same time but it finished earlier.

Q Which meeting was finished earlier?

A The Commanding Officers meeting was finished earlier.

DEFENSE COUNSEL (Dr. Leiling): No further questions.

PROSECUTION: No recross.

PRESIDENT: Any questions by the court? Apparently not. The witness is excused. Just a minute. Recall the witness.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Did you ever use any of your supply trucks to haul prisoners to the rear? -- During this offensive?

A No, not during the Ardennes Offensive. I had no connection with the combat group.

PRESIDENT: Any other questions by the court? Apparently not. The witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

(Otto - Court)

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DEFENSE COUNSEL: The defense calls as its next witness, Lt. Erhard Kinderman. Dr. Leiling, on behalf of the defense, will conduct the direct examination. The defense does contemplate recalling this witness.

ERHARD KINDERMAN, a witness for the defense, was duly sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Leiling):

Q Tell the court your name?

A Kinderman, Erhard.

Q Were you a member of the Waffen SS?

A Yes, I was a member of the Waffen SS.

Q What was your final rank?

A I was Second Lieutenant.

Q Are you now a prisoner of war?

A To my knowledge I'm a prisoner of war.

Q Are you in custody at this time?

A FWE 29, Cage 3, Dachau.

Q Where were you before you got to Dachau?

A I was in Schwaebisch Hall before I was in Dachau.

Q Were you interrogated about this Malmedy case in Schwaebisch Hall?

PROSECUTION: If the court please, we object to that question as being irrelevant and immaterial and has no bearing on the issues whether this witness was interrogated at Schwaebisch Hall.

DEFENSE COUNSEL (Dr. Leiling): If it please the court, I think it's necessary to qualify the credibility of this witness and on the other hand the whole preparation of this case is so much a part of this witness here that I think we ought to hear witnesses about that question too.

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PROSECUTION: If the court please, the only thing at issue in this case is the guilt or innocence of these accused. The interrogators are not being tried. If they wanted to try the interrogators that's a proceeding that will take place at some other time, not before this court.

PRESIDENT: The objection is overruled.

DIRECT EXAMINATION (Continued)

QUESTIONS BY DEFENSE COUNSEL (Dr. Leiling):

Q What was your rank during the Eifel Offensive?

A I was a Second Lieutenant during the Eifel Offensive, too.

Q What unit did you belong to?

A I belonged to the Third Armored Battalion of the Second Panzer Grenadier Regiment.

Q Who was your superior officer?

A My C.O. was the then Captain Diefenthal.

Q Do you remember a battalion conference which occurred before the Eifel Offensive?

A Yes, I do remember such a meeting.

Q Who was in charge of that meeting?

A Captain Diefenthal was in charge of the meeting.

Q Where did it happen and when?

A This meeting took place in the evening hours of the 15th of December in a little gardner's house in the Muehre Forest near Nettersheim.

Q Who was present at that meeting?

A Present at that meeting were: Captain Diefenthal, 1st Lt. Liecke, 1st Lt. Freuss, 1st Lt. Tomhardt, Hauptsturmfuehrer Keller, Thiele, the Adjutant, Obersturmfuehrer Flakke, the Communications Officer, Obersturmfuehrer Hofbauer, and I was present at the meeting, too. Also present in the room was the driver of the Commanding Officer, Corporal Lange.

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Q Can you give us the material substance of this conference, briefly?

A Yes. Capt. Diefenthal returned from a commanding officers' meeting at Lt. Col. Feiper's. The company commanders were already present and were waiting for some news to be brought in. We then at first received our order for moving into alert positions. Then Capt. Diefenthal brought up some details with his map and said among other things, about the importance of the mission that it was important to break through quickly. The plans were to reach the Maas within two days. The combat command was to stick together under all conditions. We were not to look to the left or the right of the road and the cleaning up of towns and taking of booty and of the prisoners of war was to be left to the infantry troops following behind. Infantry following us was the second Panzer Grenadier Regiment. We were also promised support with other weapons as artillery rockets and air support. We were also told that the main line of resistance was to be broken by the 12th Volksgrenadier Division under Major-General Engel, and that we were to follow through in this break.

Q Did Diefenthal say anything at all about the shooting of prisoners?

A Capt. Diefenthal did not say anything about that prisoners of war were to be shot.

Q Did he drop any hints which would have to cause you to conclude that prisoners of war were to be shot?

A Any hint which might have been ambiguous and might have made it possible to conclude any such thing did certainly not occur.

Q Was anything said in this meeting about the shooting of Belgian civilians?

A No, nothing was said about that. I don't remember that.

Q Was any ambiguous hint dropped about this subject?

A The subject of civilians was not discussed at all specifically.

Q To your knowledge, were the units of the Battalion Diefenthal

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oriented about the treatment of prisoners of war prior to this offensive?

A To my knowledge the units were instructed of that at the time when we were stationed in the Rhineland in the area of Bonn Euskirchen.

Q What was the form of this orientation?

A This orientation occurred after the then Surgeon Dittmann was returned from a physician's meeting and said the following: "For this offensive to come, doctors and medics, in other words the whole medical personnel are to wear a white cloth around their chests with Red Cross insignia on it. Furthermore, the steel helmets are to be painted with a red cross. Medical personnel will not carry any arms or ammunition, nor is any ammunition to be carried to the front in medical vehicles." This was transmitted to the companies in the company commanders' meeting in Poll, which was where the company was located.

Q You didn't answer my question.

A As a result of this issuance of orders, orientations took place within the company.

Q But you talked about medics now and I asked you for prisoners of war.

A In connection with this, instruction was also given concerning prisoners of war and your own behavior if you yourself get captured.

Q What directions were given for the treatment of prisoners of war?

A Prisoners will have removed from them weapons, knives, other weapons or compasses and private property will be left to them and they will be brought to the rear as soon as possible in order to permit interrogation by Division G-2.

Q Did, in this conference, Dieffenthal make a remark about like this: "A wave of fright and terror is to precede our troops"?

A As to fright and terror, the following was said: That (Kindermann - direct)

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Skorzeny's men were to precede our troops and in American uniforms, and through their appearance would cause fright and terror among the enemy.

DEFENSE COUNSEL (DR. Leiling): No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Did you ever see any of Skorzeny's troops ahead of your combat group?

A I don't remember seeing any of Skorzeny's troops, but I remember that shortly before Stavelot a jeep with two Americans in it was driving in front of us and some of the comrades said, "These are some of Skorzeny's men."

Q Were they ahead of you?

A No, they were in our column.

Q Well, you never saw any of Skorzeny's men ahead of you, is that right?

A Not in front of us, no.

Q Now what company of the battalion, of the Third Panzer Grenadier Battalion, were you in?

A I was at first ahead of Capt. Diefenthal and on December 20, during the offensive, I took charge of the 12th Company, which I commanded until the evening of the same day, because I was wounded then.

Q That was the 12th Company, you say?

A The 11th, which Tomhardt had led before.

Q And you had that company from what time on the 20th?

A About nine-thirty in the morning.

Q Until when?

A Until about seven-thirty in the evening.

Q Less than one day?

A Yes.

Q And then you were wounded?

A Then I was wounded, yes.

(Kindermann - Cross.)

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Q Now what time was this meeting of the company commanders of the 3rd Panzer Grenadier Battalion held that you attended and which was conducted by Diefenthal?

A December 15, 1944, in the evening hours.

Q The early evening hours?

A No, in the late evening hours.

Q I hand you Prosecution's Exhibit No. P-98, which is a statement made and sworn to by Diefenthal, and refer to page 2, Exhibit "A", forming part of that statement. Do you recognize the signature on the bottom of that Exhibit "A"?

A Yes, I know that signature.

Q Whose is it?

A That is Capt. Diefenthal's signature.

Q Now I will read a portion of Prosecution's Exhibit 98-A.

"On this sketch which I mark 'A' is meant: 1 The entrance. 2 a bench. 3 a table. 4 a chair. 5 a bench. 6 a stove. 7 a bench. 8 a box with switchboard. 9 a table. Possibly we sat as follows: 10 my position. 11 position of Obersturmfuehrer FREISS. 12 position of Obersturmfuehrer TOMHARDT. 13 position of Untersturmfuehrer FLACKE. 14 position of Untersturmfuehrer LEICKE. 15 position of Hauptsochurfuehrer THIELE. 16 position of Untersturmfuehrer HOFBAUER."

Q Is that sketch and legend which has been read from Diefenthal's statement substantially correct?

A It is substantially correct; yes.

Q Now I will read you another part of this same statement, Prosecution's Exhibit 98-A:

"Before I went into the tactical details of the offensive ahead, I passed on to my officers the order in regard to the general conduct, which I myself received from the Panzer Regiment. I told them that on account of the decisive importance of the offensive ahead, it must be fought recklessly and that a wave of fright and terror must precede our troops and that the resistance of the enemy is to be broken by terror. In this first part of my address I also said something about prisoners of war; however, I do not know any longer exactly what I said. Anyhow I brought the prisoners of war in in connection with the regimental order received about the wave of fright and terror which should precede us. However, I am absolutely certain not to have said that it was not permitted to take prisoners, or that the prisoners that would be taken had to be shot."

Q Is that portion of Diefenthal's statement correct, or not?

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A That is true so far, but what is said about fright and terror was said in connection with Skorzeny's men.

Q Well, then Diefenthal's statement that he used in connection with prisoners of war is untrue; is that right?

A I didn't quite understand the question.

Q I will read one sentence again from this statement of Diefenthal's: "Anyhow, I brought the prisoners of war in in connection with the regimental order received about the wave of fright and terror which should precede us."

Do you say that that is true or untrue?

A It wasn't said in this way about prisoners of war. It was said that they were to be left to the infantry following behind. Cleaning out villages, making booty and taking prisoners. Capt. Diefenthal pointed out several times that under all conditions the combat group would have to stay together, that we shouldn't spread out.

Q He didn't tell you that prisoners of war were to be sent back in truck convoys, did he?

A I don't know whether any such orders were issued.

Q You were there at the meeting, weren't you, Lt. Kindermann?

A Yes.

Q I am asking you whether or not Diefenthal told you and the other officers present that prisoners would be evacuated in empty convoys?

A I don't remember any such thing being said.

Q Well, you would know if he said it, would you not?

A (No answer).

Q Lt. Kindermann, isn't there considerable difference between sending prisoners back in empty convoys and letting infantry troops following up take care of them?

A No, there is no big difference.

Q There is no difference! Anyway, you don't remember anything about returning prisoners in empty truck convoys? Is that correct?

(Kindermann - cross).

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6/24-1

Q There is no difference? Anyway, you do not remember anything about returning prisoners of war in empty truck convoys, is that correct?

A I don't remember anything being said about that in the conference.

Q Were Preuss and Tomhardt present at this conference?

A Yes, they were both present.

CAPTAIN SHUMACKER: No further cross.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (DR. LEILING):

Q How did you understand Diefenthal's statement that fighting was to be done ruthlessly?

A The word "ruthlessly", that is to mean that one should proceed without any regard for one's own casualties, and that the enemy's resistance must be broken.

DR. LEILING: No further questions.

CAPTAIN SHUMACKER: Prosecution has one or two other questions.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q Where and when was this that you gave your extensive training about the treatment of prisoners of war?

A That was when the Leibstandarte was in the area of Westfalia, preparatory to the attack, and also one other time in the Rhineland.

Q When?

A Late in November, early in December.

Q And one of the things you told them was that

(Kindermann-Recross)

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6/24-2

medics would wear the Red Cross insignia on their helmets and a band across their chest, is that correct?

A Yes.

Q And that they would not carry weapons?

A Yes.

Q Was that something new for the German medics in the Leibstandarte Adolf Hitler?

A In Russia it was not usual for medics and doctors to go into combat without arms.

Q This was not the first time the Division was committed in the West, was it?

A No.

Q When did you ever see a German medic with a Red Cross on his helmet? You never saw one in this offensive, did you?

A Yes.

Q From your battalion?

A Yes.

Q Were you also told that prisoners of war that you captured only had to give their name, rank and serial number, is that right?

A That was the orientation, yes.

Q And that they would be rushed back to Divisional G-1 for interrogation there?

A Yes.

Q If they were to be rushed back to G-1 for interrogation there, how were you going to leave them, just by the side of the road and let the Infantry pick them up?

A I cannot permit myself to judge as to how that

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6/24-3

was possible.

CAPTAIN SHUMACKER: That is all.

PRESIDENT: Any questions by the Defense?

DEFENSE COUNSEL: Nothing further on redirect.

PRESIDENT: By the Court?

LAW MEMBER: By the Court: If Skorzeny's men were ahead of your combat group, would you have seen them?

THE WITNESS: We would not necessarily have seen them because they were to fight far behind the American lines and to create rumors and unrest.

PRESIDENT: Any other questions by the Court? Apparently not. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: Defense calls as its next witness, Lieutenant Heinz Goltz. Dr. Leiling on behalf of the Defense will conduct the direct examination. The Defense does not contemplate recalling this witness.

HEINZ GOLTZ, a witness called on behalf of the Defense, after being first duly sworn, took the stand and testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (DR. LEILING):

Q Give your name to the Court.

A My name is Heinz Christian Goltz.

Q Were you ever a member of the Waffen SS?

A I have been a member of the Waffen SS ever since 1939.

(Goltz-Direct)

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6/24-4

Q What was your final rank?

A My last rank was SS 1st Lieutenant.

Q Are you now a prisoner of war?

A I am now a prisoner of war.

Q Were you held in constant custody?

A At the present time in cage 3 of the F/AE in Dachau.

Q What was your rank and position during the Eifel Offensive and which unit did you belong to?

A I was an SS 1st Lieutenant and company commander in the Reconnaissance Battalion of the Leibstandarte.

Q Who was your superior officer?

A My commanding officer was SS Sturmbannfuhrer Knittel.

Q Were you present at a meeting that took place shortly before the Eifel Offensive?

A Yes, I was present at a meeting.

Q Where and when did that meeting take place?

A The meeting took place on the 15th of December, late in the evening at the Battalion CP next to the Elankenheim Forest.

Q Can you describe the location in greater detail?

A It was a house located near the railroad station Glaadt.

Q Who was in charge of this conversation?

A Sturmbannfuhrer Knittel was in charge of the meeting.

Q Who was present?

A Present were the Battalion Adjutant, Untersturmfuhrer

(Goltz-Direct)

Tk #250-SR  
6/24-5

Stiebel, also present were all Company Commanders of the 1st Company SS 2nd Lieutenant Rentsch, the 2nd Company SS 1st Lieutenant Goblentz, for the 3rd Company SS Obersturmfuehrer Leitreiter, for the 4th Company, 1st Lieutenant Wegner, for the Service Company SS 1st Lieutenant Reuss. Further present was the Battalion Surgeon. The Company Commander of the Panzer Pioneer Company, whose name I don't know, and the commanding officer of the 2nd Battery of the 1st Artillery Regiment, 1st Lieutenant Buschek, and I myself were present.

Q Can you identify Knittel among these accused?

A Yes, number 31.

Q Can you give to the Court briefly the substance of that conference?

A The subject of the conference was the expected so-called Eifel Offensive. In his own words, Sturmbannfuehrer Knittel reproduced an order of the day which had been issued by Army. This order said about the following:

"We are confronted with a decisive turn in this war for this offensive is meant to make a decision for Germany. The Volksgrenadier Division and Panzer Units are to break through the front and for that purpose the home front has made available to you a large number of weapons and materials. The offensive will be initiated by an artillery barrage from more than 100 barrels. Furthermore, stronger air support will be given and the supply bases of the enemy, as for instance, Antwerp and Leige, are to be under barrage from "V" weapons.

Q Are you still talking about this order of the day?

A I don't know whether all these matters were

(Goltz-Direct)

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mentioned in the order of the day but that was the gist of Major Knittel's introductory remarks.

Q What else did he say?

A We then discussed the tactical order which Division had issued for our battalion.

Q How did you happen to receive a tactical order from Division?

A The Reconnaissance Battalion is a unit assigned to the Division and therefore, we received orders for any action from Division.

Q What did Knittel say later?

A We discussed the expected procedure of the action. The plans were to use the reinforced Reconnaissance Battalion as a forward battalion. We were either to follow the armored group of SS Colonel Peiper along the route to be determined by the commanding officer or we were to follow the reinforced 1st Regiment. This decision was put up to the commanding officer. It was to depend on which combat group would gain ground faster. It was to be expected that until the end of the Hohenven the battalion was to follow the group without any actual combat, that then the reconnaissance battalion would place itself in front of the armored group or the 1st Regiment, whichever the case may be, in order to reach the Maas as rapidly as possible, making use of motor vehicles and taking the bridge across the Maas south of Liege, which was to be undamaged.

Q Did Knittel say anything about treatment of prisoners of war during that conference?

A Sturmabannfuhrer Knittel did not say anything in

(Goltz-Direct)

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6/24-7

particular about the treatment of prisoners of war.

Q What do you mean by "not anything in particular"?

A Nothing in particular, only the usual, that the prisoners of war which were made were to be taken back to the headquarters or rather to the Division as soon as possible.

Q Did he say anything about prisoners of war being shot?

A No, that was not mentioned in one word.

Q Did he say that Belgian civilians were to be shot?

A No, that wasn't mentioned either.

Q Did he say that special cases might occur which would make shooting of prisoners of war appear militarily justified?

A When the number of enemy facing us was mentioned it was also said that armed resistance from civilians was to be expected.

Q You did not answer my question. I wanted to know whether Knittel said in special military situations it might be necessary to shoot prisoners of war.

A I don't remember that.

Q Did Knittel drop any such hint which one of the participants could understand to mean that prisoners of war were to be shot?

A No, no such hint was dropped.

Q Did Knittel talk about the action Greif?

A Yes, we were orientated about that too.

Q What did he say in that connection?

A He said about this the action Greif is preceding

(Goltz-Direct)

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6/21-8

a combat group of its own. The combat command Greif was to make use of the confusion which was to be caused by the surprise attack of our tanks and it too, as our original orders also called for it to put itself in a position of a bridge across the Maas as soon as possible and to keep that bridge open as long as was necessary for the armored spearheads to advance that far.

Q- Did Knittel say anything about the treatment of prisoners of war and Belgian civilians in connection with the operation Greif?

A No, I don't remember that.

Q Did he say anything about how the operation Greif was to spread terror or fright among the enemy?

A That in my opinion would not have been within the scope of the purpose of the operation Greif at all, for if an operation were causing fright and terror it will probably be recognized in its nature at an early moment and not reach success.

Q What was the purpose of the operation Greif then?

A The purpose of the Operation Greif was to get to the Maas Bridge as soon as possible and the material point and was to get one Maas bridge undamaged so that our tank units could get across.

Q Did Knittel tell you that?

A That is my personal opinion of the Operation Greif, the way I thought the matter over.

DR. LELLING: No further questions.

DEFENSE COUNSEL: You may cross examine.

(Goltz-Direct)

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6/24-9

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Was the Pioneer Platoon part of your Headquarters Company?

A Yes, the Pioneer Platoon was part of our Headquarters Company.

Q Who was the leader of this platoon during the Eifel Offensive?

A SS Lieutenant Droege led that platoon.

Q I will read to you from Prosecution Exhibit P-26-A, which is a signed statement by the accused Knittel. (Reading):

"On 15 December at 2300 I conducted a company commanders' conference of the fast groups at the battalion C.P. of the PZ. A.A. 1;

"Location: Near railroad station Glaadt

"Participants:

Adjutant SS Untersturmfurher Stiewe  
Comp. Commander 1st Company SS Untersturmfuehrer  
Comp. Commander 2nd Company SS Obersturmfuehrer Coblentz  
Comp. Commander 3rd Company SS Obersturmfuehrer Leidreiter  
Comp. Commander 4th Company SS Obersturmfuehrer Wagner  
Comp. Commander 5th Company SS Obersturmfuehrer Reuss  
Comp. Commander Pz. Pi. Comp. SS Obdrsturmfuehrer  
Battery Commander 2/A.R.1 SS Obersturmfuehrer  
Comp. Commander Headquarters Company SS Obersturmfuehrer Goltz"

Is that statement, as far as has been read to you, correct?

DR. LEILING: Chief counsel for the Prosecution just said to the witness that this was a sworn statement.

PROSECUTION: I will withdraw that. I meant to say "signed" statement.

PRESIDENT: Translate that so that the witness will know it is a signed statement and not a sworn statement.

(Whereupon the interpreter did as directed.)

(Goltz-Cross)

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6/24-10

PROSECUTION: I would like to ask the reporter to read the question.

(Whereupon the question was read by the reporter as follows:

"I will read to you from Prosecution Exhibit P-26-A, which is a signed statement by the accused Knittel.")

PROSECUTION: Will you please read the last part of that question as well?

(Whereupon the last part of the last question was read by the reporter as follows:

"Is that statement, as far as has been read to you, correct?")

THE WITNESS: Yes, that is right.

QUESTIONS BY PROSECUTION:

Q I will continue reading:

"Contents of the Conference - 1. Taking over of the battalion."

Is that correct?

A Yes, that is correct. The Battalion Commander until the 14th of that month was Hauptsturmfuehrer Wofzinek and on the 15th of December Major Knittel again took the battalion over.

Q (Continuing reading): "Issuance of the written tactical divisional order and the distribution of maps."

Is that statement true?

A Yes, that is correct.

Q (Continuing reading): "3. Marking of position and the plan of attack."

Is that statement correct?

A Yes, we put the positions on the maps.

(Goltz-Cross)

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6/24-11

Q (Continuing reading): "Presumable commitment of the battalion."

Is that statement correct?

A Yes, that is correct too.

Q (Continuing reading): "Publishing of the operation 'Greiff.'"

Is that statement true?

A Yes, that is true too.

Q (Continuing reading): "Oral transmittal of the order transmitted by the division from the SS A.O.K. 6 about conduct in battle in extracts."

Is that statement correct?

A I don't know which order is meant by that.

Q Do you have something else you want to say?

A Only the order which I quoted previously, the Army Order. I don't know whether this order is identical with this one.

Q Did he transmit any oral orders?

A Well, all the orders that were given were transmitted by Major Knittel to us.

Q I will read the next sentence. (Reading):  
"Last exertion of force for final battle, beautiful far staked task, fighting requiring greatest harshness."

Is that part of the statement correct?

A Substantially, that is correct too.

Q (Continuing reading): "The going is through enemy territory, think of your relatives suffering under the bomb terror in the treatment of the enemy

(Goltz- Cross)

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Tk #250-SR  
6/24-12

civilian population." (b)

Is that statement correct?

A No, I don't remember it the way it is set down here.

Q How did he say it?

A He said that the way in which every officer and man would use himself in the offensive would be the decisive factor and Major Knittel demanded of every officer and man that he fight to the utmost in that offensive.

Q What did he say about the relatives suffering from the bomb terror?

A It was mentioned that the bombing war against the German people would be stopped by this offensive because the big thing of this offensive was that space was to be cleared until the Atlantic Ocean and in that connection Knittel might perhaps have said that the home front would get amelioration due to lack of bombing terror.

Q Do you mean to say that the German people never suffered from any bombing terror before the invasion started?

A No, I don't mean to say that but certainly the efficiency of the enemy became much stronger when he got operational bases on the continent.

Q I will read you the last sentence from Knittel's statement. (Reading):

"If the military necessity requires it, in especially compelling situations, allied prisoners of war are to be shot."

Did he say that at his meeting?

A No, Major Knittel did not talk about this.

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Tk #250-SR  
6/24-13

Q Did he say anything about prisoners of war were to be transported to the rear?

A Nothing special was said but the way it was usual in our battalion was that the vehicles which carried ammunition and supplies to the front would carry prisoners of war in their empty vehicles while going back.

Q In this offensive did you see any prisoners of war going back in these empty supply vehicles?

A Individuals, yes, but I saw larger columns march in the streets.

PROSECUTION: No further cross examination.

DEFENSE COUNSEL: Nothing further on behalf of the Defense.

PRESIDENT: Questions by the Court? Apparently none. The witness is excused. Court will adjourn until 0830 hours tomorrow morning.

(Whereupon court adjourned until 0830 hours Tuesday morning, 25 June 1946.)

End tk 250

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25-T-1

CAMP DACHAU, GERMANY

MORNING SESSION 25 JUNE 1946

(Whereupon the Court reconvened at 0830 hours.)

PRESIDENT: Take seats. The court will come to order.

PROSECUTION: If the Court please, let the record show that all members of the Court, all members of the prosecution with the exception of Lt Col Crawford and Captain Byrne, who has been excused by verbal orders of the Commanding General, all members of the defense with the exception of Captain Narvid, Dr. Rau, Dr. Pfister and Dr. Leiling, who are absent on business of the defense, all the defendants and the reporter are present.

DEFENSE COUNSEL: The defense calls as its next witness the accused Friedrich Christ. The questions of American and German counsel have been consolidated and Dr. Hertkorn will conduct the direct examination on behalf of the defense. The defense contemplates recalling this accused.

FRIEDRICH CHRIST, one of the accused, called as a witness in his own behalf, took the stand and testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (Dr. Hertkorn):

Q Please give your first and last names to the court.

A Friedrich Christ.

Q Your birth date and birth place?

A Twenty-first February 1920 in Munich.

Q What position did you have during the Bifel Offensive, that is in a military reference?

A I was company commander of the 2nd Panzer Company of the 1st Panzer Regiment.

(Christ - Direct)

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Q When did you take this company over?

A I took this company over on 9 November 1944.

Q What military position did you have immediately before that?

A I was company commander of the training company of the Panzer Regiment.

Q Where was the training regiment stationed?

A The training company was stationed in Rhahn, Westphalia.

Q Did you before the Eifel Offensive give instructions about the tactical treatment of Panzers toward prisoners of war?

A Yes.

Q What was the contents of your instructions to the troops?

A That we as Panzer Troops by breaking through with speed were not to take up time by bringing in prisoners of war.

Q Did you give a reason to the troops for this idea?

A Yes.

Q With what?

A That if that were not the case the speed of the advance would be reduced and by detailing crews to guard the prisoners our fighting strength would be reduced conservatively.

Q Did you then instruct the troops as to what was to happen to the prisoners of war?

A Yes.

Q What?

A The Infantry that followed would take over the prisoners.

Q Were you, yourself, instructed in the same manner about this theme?

A Yes.

Q Where and by whom?

A By sand table exercises within the regiment and during tactical training courses such as company commander training course in Versailles.

(Christ - Direct)

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#251

25-T-3

Q Do you know if the contents of these instructions became the foundation of the German Panzer Troops?

A Yes, those were foundations for the training of Panzer Troops.

Q Did you have instructions given in your company about the Laws of War and Geneva Convention?

A Yes.

Q When was that approximately?

A I can remember very well one course of instruction that took place between the 8th and the 10th December in Fleisheim, and the last course of instruction on the 16th December in the Schmidtheim Forest.

Q What was the contents of these instructions?

A I combined these instructions with instructions as to what was to be done if one would fall into enemy hands himself. I told the men that they were to treat prisoners of war the same way as they would expect to be treated in case they were to fall into enemy hands. I also told them that the prisoner of war was only obliged to give his name, his APO number, and I also set that up as an example of silence.

Q Did you immediately before the offensive participate in an issuance of order within your regiment?

A Yes, I took part in that issuance of orders?

Q Where was that?

A That was on 15 December 1944 in a hunting lodge in the Blankenheim Forest late in the afternoon.

Q Who issued the order?

A Sturmbannfuhrer Poetschke was in charge of the issuance of orders.

Q Did he talk alone?

A Yes, only Poetschke talked.

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Q What was in a sense the contents of his speech in short?

A "Tomorrow we are going to fall out for a great offensive which will be decisive for the fate of Germany. It is a last large effort of strength. The home front has given us, inspite of the most unfavorable conditions, and in spite of the terrible bombing and terror, new weapons and new tanks that were in many cases constructed under the blue sky. And you should think about the fact that hundreds of thousands of German women and children were killed by the bombing terror. This offensive has to be successful at any rate, then the bombing terror will cease.

"We have to fight without regard for humanbeings or material. New weapons and strong air corps formations will support us. Volks Grenadier Divisions and Volks Artillery Battalions will accompany us. Furthermore agents and parachutists were dropped in back of the enemy and special details under the leadership of Skorozeny will advance in front of us. They are wearing American uniforms and carrying American weapons and that shall be their special pass such as the elimination of enemy sentries, elimination of enemy staffs, the disruption of enemy communications and spreading of false rumors, bring panic, confusion and fright to the lines of the enemy and will confuse the retreat of the enemy. The Armored Group has the Maas as its goal. It is a task of desperation to us and there is only one chance left to us, and that is to use the surprise and speed. That is the reason why we must drive and drive and push through, not looking to the right or to the left, and not worry about any booty or prisoners of war. We are not going to make prisoners. Our job is only finished then when the last tank reaches the Maas.

"Reinforcements will be very difficult within the next days; it will be primarily ammunition only. We shall have to supplement supplies and fuel primarily through stores of the enemy."

That was approximately the speech which Poetschke made.

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25-T-5

Q Did Poetschke say anything about enemy civilians or civilians at all?

A Yes, Poetschke further said that we are going to enter a territory in which the civilian population is inimical to us. If civilians appear with weapons, they are to be treated as partisans. That was all.

Q Did you consider it something special, the speech of Poetschke in which he said that no prisoners of war were supposed to be made?

A No, I considered that as a repetition of the general fundamental theories of the Panzer Troops.

Q How did you consider that in detail, not to worry about prisoners of war and not to make prisoners of war?

A That we would not consider the prisoners of war at all. If enemy soldiers should surrender and there are no crews of shot up tanks there to guard them, so we will just let them stand there or send them back to the rear and the company that follows will take them up.

Q Did you know if Infantry was going to follow?

A Yes, we were told that the 2nd Regiment would follow us.

Q Which 2nd Regiment, Panzer Regiment or some other?

A The 2nd Grenadier Regiment of the 1st Panzer Division.

Q Did you have to give an additional explanation to the speech of Poetschke as company commander?

A Yes; at the end of the conference we were given a sheet block and the following was written on it:

"I do know about the preparations for the Eifel Offensive, and I do know about the Eifel Offensive, and obligate myself silence."

And we put our names under there.

Q Did you make a speech to your company after the speech of Poetschke?

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A Yes, I repeated the speech of Poetschke.

Q Did any one of your men ask questions when you made this speech to your company?

A No, not with respect to the order in the speech itself.

Q Was it, in order to come back once to the order of Poetschke, your company arranged in the marching order of the Panzer Group?

A Yes, we talked for a short while about the order of march which had not been finally determined. I was supposed to follow at the end of the first marching group.

Q Did you have any special task to perform at the end of the march group?

A Yes, I was a reserve company and I was supposed to take over the rear protection of the first march group.

Q When and where were you first interrogated?

A I was first interrogated in Ebensee on 30 August 1945.

Q About what were you asked at that time?

A I was asked about the order of march and mainly if an order had existed according to which prisoners of war were to be shot during this offensive.

Q What was your answer to that?

A I answered that there was no such order.

Q Were you particularly asked about your speech in the Blankenheim Forest?

A No.

Q What happened afterwards?

A I was put in solitary confinement subsequently for four weeks.

Q Where?

A In the camp in Ebensee.

Q How long did you stay in Ebensee?

A On the 30 September I was transferred from Ebensee to the

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jail of Dachau.

Q How long did you stay there?

A I remained in Dachau until 20 November 1945.

Q Where were you sent then?

A I was sent to Zuffenhausen on the 20 November.

Q Was Zuffenhausen a PW camp?

A No.

Q How did you know that?

A At first I did not know what type of camp Zuffenhausen was but after the first 30 minutes it was clear to me that this could not be a PW camp. And when I then asked my comrades the next day, I was told that this was an internment camp

Q Could you talk with your comrades there?

A Yes.

Q Who were these comrades?

A They were members of the 1st Panzer Regiment.

Q About what did you talk to them in regard to the offensive?

A Of course, I asked them if they knew about any order that existed according to which PWs were to be shot during the Elfer Offensive, and my comrades knew nothing and answered negatively to this question. And I asked the members of my company if I had ever given them such an order. Nobody knew anything about that, and everyone answered "No" to this question.

Q When were you interrogated the next time?

A The next time I was interrogated on 17 December 1945 at Schwäbisch Hall.

Q When were you sent to Schwäbisch Hall?

A I arrived there on 7 December.

Q What were you asked there?

A The interrogation started about like this. "Do you have

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anything to add to your testimony from Ebensee?" I said, "No". Thereupon I was yelled at, "Stand up you liar, you lying pig." I was again asked and I again said, "No".

Thereupon I was put under oath.

Q Were you then asked anything further about the offensive while you were under oath?

A Yes.

Q Do you remember what it was?

A Yes, I remember I was asked if I knew that an order had existed according to which PWs were to be shot, if I knew who had given the order for the shooting at the Cross Roads and if I knew the reasons for it, and if I knew who had shot at the Cross Roads. I answered, "No" to every one of those questions.

Q What happened then?

A Thereupon the statement of mine was dictated.

Q Which statement of yours?

A These questions, this statement that I did not know who had given the order and that I did not know that any such order existed, and that I did not know who had shot at the Cross Roads.

Q You mean then the answers?

A Yes, the answers were dictated to me.

Q What happened then?

A Thereupon I was accused of perjury. The interrogator said, "Now I have got you for perjury and the rope is getting tighter and tighter around your neck. You have been charged so heavily and the material is so depressively that you only have one chance left, and that is to tell us the truth now, otherwise you will be hanged."

I still didn't know anything. Thereupon the interrogator read a statement to me. That is they were only parts of a statement. The name of the man who had written the statement was not given to me. He was alleged to have been a member of the 2nd Company. Accord-

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ing to this statement I was supposed to have made a speech in the Blankenheim Forest on 15 DecembeS with a definite content.

Q Do you remember what the contents was supposed to have been of this speech which you allegedly made?

A At that time I could not remember the issuance of the order in the Blankenheim Forest nor making a speech itself. When the details were read to me that in the afternoon of 15 December I had driven to the company with my personal car, that I had ordered the company to fall out in the forest; that a small fire was supposed to burn and that there was a large black box like a typewriter box was supposed to be standing behind me. Then those things came back to my memory and I remembered that afternoon.

In this statement it said that I had made a speech and I had said that this offensive was very decisive and that we would make no prisoners during this offensive, that we should spread terror and fright and that this terror and fright was to precede us so that the enemy would be afraid to meet us.

I said, "No" to that, I had never said that.

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The interrogator assured me that I had said that and made many more of these type of statements. Furthermore, my memory at that time was still so fresh, that by the constant talking to these three gentlemen, and by the cursings, and by the charges of having committed perjury and the charge that I was just trying to get away from it -- and then they asked me if I expected my men to get hanged for me -- after this, I became quite confused and thought if my memory was getting bad again, so I asked the interrogator to give me an hour, so that I could remember it all, but this was not permitted. The interrogator told me that an order not to takeprisoners was meant in such a way that the prisoners were to be shot. That was quite new to me and I replied to the interrogator that he was the first man that had ever told me that and he again assured me that this order did exist and that it was issued by Peiper and Poetschke and that Poetschke had repeated it. Through all this, I got into such a spiritually forced situation and I was so depressed that I didn't know any more what was to be true and what was a lie: I became completely confused about this order and said that this order meant that the prisoners of war should be shot and that we had to spread fright and terror and this was then dictated to me immediately --

Q One question: I don't believe I understood you correctly: you said a while ago that your memory was still so fresh that

(Christ -- Direct)

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it became confused by these accusations?

A I meant that I did not remember any more the afternoon of the 15th of December, 1944; when I was told, however, that I had made a speech and that a fire was burning and that it was already dark, I could then remember those details and that it was a fresh memory to me which was not quite clear yet. I never denied that, I admitted it readily.

Q Do you mean to say, then, that your memory, before these accusations was not fresh?

A Before these accusations, I could not remember the 15th of December. There had never been any occasion to remember it and none of my men had ever reminded me of it; in the meantime, during the offensive and afterwards, some things that had happened on the 15th of December became unimportant.

Q Do you mean to say, then, that by these accusations your memory was refreshed again?

A Yes, that is what I meant to say.

Q You said a while ago that you admitted having given the order to shot prisoners of war?

A No, I only said that "we would not make prisoners of war", but not in the sense that prisoners of war were to be shot.

Q But that is not in your statement at all: it says in your statement --

PROSECUTION (Captain Schumacher): If the court please, this sounds like cross-examination of the defense witness and we object to that, unless the Doctor is impeaching his own witness.

LAW MEMBER: These questions are all leading questions, Dr. Hertkorn.

DEFENSE (Dr. Hertkorn): I intended to correct a false  
(Christ - Direct)

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impression which was made by the testimony of the witness and prevent by that that his credibility be attacked — that is, prevent his credibility being attacked by this misunderstanding. For this reason, I wanted to call to his attention his own former statement.

LAW MEMBER: It is perfectly proper for you to correct a misstatement, Doctor, if you think that one has been made, but it is not proper for you to put words into the mouth of the witness. You may proceed with your examination, Doctor.

DEFENSE (Dr. Hertkorn): Thank you. I wish to try to re-phrase my question.

QUESTIONS BY THE DEFENSE (cont'd. -- Dr. Hertkorn):

Q Do you remember what you said and admitted in your statement?

A Yes: I said that this order had said that no prisoners of war were to be taken by us and that we should not bother about prisoners of war. Thereupon, it was explained to me that the thought behind this order was that the prisoners of war were to be shot. I denied that, of course, because that was completely new to me. I told the interrogator that I was hearing this from his mouth for the first time.

Q Was your statement which you made in Ebensee, or the second statement, which you made on the 2nd of December, correct?

A My statement in Ebensee and my first statement in Schwabisch Hall was correct.

Q Were you interrogated twice in Schwabisch Hall?

A No, it was one solid interrogation, which lasted all through the afternoon. However, during this interrogation, I wrote three statements.

(Christ - Direct\*)

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Q Do you remember whether the last statement which you wrote down, because of these accusations, was any different from the statement which you wrote previous to that?

A Yes.

Q How were these statements different?

A I wrote the last statement as I had to write it: that we were to spread terror and fright, so that the enemy would be afraid to meet us.

Q And was this statement, according to your comprehension, not correct?

A No, it was not correct.

Q What was correct?

A The word "terror" was never used in this connection; the word "terror" was only used in connection with the expression "bombing terror". We were not supposed to spread panic, confusion and fright, but the Skorzeny troops which preceded us were supposed to do this, as well as the agents and the paratroops.

Q Why did you tell them, during this interrogation, that you did not go to Peiper?

A I was told that this order that prisoners of war were not supposed to be taken was issued by Peiper and that I should have protected myself against it. At the end of the interrogation, I asked the interrogator when I would be tried before a court and he told me: "...such little war criminals as you will not be put before a court; we can't make such a big show for the little guys like you. This will only be a trial of the record; it will be decided tonight and you will find out your sentence tomorrow...".

Q Were you again sent to solitary confinement?

(Christ - Direct)

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A Yes, subsequently I was sent to solitary confinement.

Q Were you again interrogated?

A Yes, I was interrogated for a short while, on the 12th of January, 1946. During this interrogation, I was supposed to charge that Peiper had been present when Poetschke issued his orders, but I couldn't do that, because I hadn't seen Peiper at all at this time: I denied it.

Q And were you again interrogated, later on?

A Yes, on the 19th of March, 1946.

Q What happened then?

A The interrogation went on, as follows: "...We called you here in order to tell you about the points of your charge. We want you to have a good chance; you are only a First Lieutenant; we want Peiper, Preiss and Dietrich -- we only want them, not you." I was then told about the accusations against me: that I had given orders in La Gleize to shoot prisoners of war, that I had given orders in Stoumont to shoot prisoners of war and that I had been present at the crossroads and had given orders. I denied that. Thereupon, I was cursed terribly and I was told that if I didn't tell the truth, I would be hanged in Bruchschal, that my mother would receive a form message about my hanging and that she would not get any work, and that, since she would then not get any ration cards, she would then necessarily starve. I was also told that if I wouldn't talk I would be sent to Stoumont and be shot there while trying to escape; they told me that I would regret the hour in which I had not committed suicide and that my mother would regret and curse the hour in which she gave birth to me.

Q One other question: were you once confronted with an American officer?

(Christ - Direct)

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A Yes, that was on the 4th of April, 1946.

Q What happened then?

A I was confronted with First Lieutenant Larry and I was told that he would recognize me with absolute certainty -- and that he had recognized me from the time when he was lying in the ditch at the crossroads, and that he had seen me run up and down at the crossroads and had heard me give orders to shoot prisoners of war there.

Q Did First Lieutenant Larry say that himself, or did the interrogating officer say that?

A First Lieutenant Larry only spoke English and during the time that I was confronted with him there were about five or six other men present and I was told on that occasion that that was what he had said.

Q And what did you reply to that?

A I said that it must be an error and that I couldn't be possible.

Q What happened then?

A Thereupon this meeting was finished.

Q During any subsequent interrogations, was the statement of Lieutenant Larry ever referred to again?

A No.

DEFENSE (Dr. Hertkorn): No further questions.

DEFENSE (Colonel Everett): You may cross.

PROSECUTION (Captain Schumacher): I have some questions.

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION (Captain Schumacher):

(Christ -- Cross)

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Q As I understand it, Christ, the interrogators there at Schwabisch Hall were encouraging you, in March, 1946, to commit suicide, is that correct?

A Yes.

Q They didn't want to save you and have you as an accused in a war crimes trial, did they?

A I don't know how you mean that?

Q You had plenty of razor blades in your cell, so that you could commit suicide easily?

A If I had wanted to do that, of course I could have done so, because we did receive razor blades.

Q And they were taken away from you, immediately after you had shaved weren't they?

A Yes, that usually took about ten or twenty minutes -- however, I didn't finish the first question: during that interrogation, I was told --

PROSECUTION (Captain Schumacher): If the court please, I request that the court instruct the witness to answer the questions that are asked him. If he wants to make a speech on re-direct, he has the right to do so -- unless he wants to explain his answer.

PRESIDENT: The witness will answer the questions.

Q Now, you say that you got to Schwabisch hall on the 7th of December, 1945, and that you made your written statement on that same date, is that right?

A Yes.

Q Prior to that, your previous interrogation had taken place in August, 1945, when you were in a PW Camp, at Ebensee, is that correct?

A Yes.

(Christ - Cross)

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Q So the statement -- the second statement that you wrote on the 17th of December, 1945 -- no, strike that question. When you were interrogated on the 17th of December, 1945, you were not confronted with any of your fellow officers, were you?

A No, not on the 17th.

Q Well, the 17th was the day that you wrote your statement, wasn't it -- the statement that has been introduced into evidence in this trial?

A Yes, that was the 17th of December.

Q So that your statement was not precipitated by a breakdown in the comradeship of your former fellow-officers or the men of your Company?

A No.

Q In other words, you were just about the first officer to tell about these orders in the First Panzer Regiment, weren't you, as you have later found out?

A At this time I was told that I was one of the last to testify and that all of the others who had been there had already made their statements and that they had all admitted it --

Q -- and so, you decided to tell the truth yourself?

A No, I didn't decide that.

Q So, you told your story, just to be consistent with the stories that the others had told, according to your understanding, is that correct?

A No, I denied it: I said that it wasn't like that, however, at that time I was so confused that I didn't even have my own opinion any more.

Q How long had you been in the Army at that time, Christ?

A Up to that time, I had been in the Army since 1938.

(Christ - Cross)

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Q In other words, about seven years?

A Seven years, yes.

Q And you were greatly confused, because an interrogator had told you what your fellow-officers had told about these orders, prior to the Eifel offensive?

A Well, the interrogator accused me of perjury, and that is the reason that I became so confused. Furthermore, there were three men talking to me. Furthermore, I was cursed at and I was so surprised at this treatment, that I couldn't form a clear opinion at that time.

Q When you were questioned on the 17th of December, 1945, as to what had transpired on the 15th of December, 1944, you couldn't remember what had taken place on the 15th of December, 1944, because this interrogation came as a complete surprise to you, isn't that true?

A The 15th of December had never been mentioned up to that time.

Q Of course, when you were interrogated at Ebensee, in August, 1945, that interrogation had nothing to do with the orders that had been issued prior to this offensive, did it?

A No -- but, in a certain respect: yes. But there was no such order, according to which prisoners of war were to be shot. I was never asked about the 15th of December.

Q Of course, when you were interrogated in August, in Ebensee, any questions that may have been asked at that time about orders that had been issued prior to this offensive did not recall to your mind the 14th or the 15th of December, 1944, did it?

A No, because the 15th of December was nothing unusual in itself.

Q And there was nothing unusual about any of the days

(Christ - Cross)

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that immediately preceeded the beginning of this offensive, although you were interrogated about orders issued prior to the beginning of this offensive, is that right?

A There was nothing unusual contained in these orders, so that I would particularly remember them.

Q And when you got to Zuffenhausen, on the 20th of November, and found out that you were at an internment camp, you didn't think any more about what had transpired prior to the beginning of this offensive, is that right?

A No. I asked my men why we were there and my men asked me the same thing.

Q And you had no idea why you were there?

A No, I have a very pure conscience.

Q And is that the reason that you asked your comrades at Zuffenhausen about orders to kill prisoners of war, because you had no idea why you were there?

A I asked them about that at this time, because I had been told, in my interrogation at Ebensee, that such an order had existed.

Q And that was in August, 1945?

A Yes, in August, 1945.

Q And you got to Zuffenhausen on the 20th of November, 1945?

A Yes.

Q And you had no idea why you were there, is that right?

A I did know that it was in connection with the Malmedy Affair.

Q Didn't you just testify a moment ago that you had no idea why you were at Zuffenhausen?

(Christ - Cross)

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A I am talking about the charge or the accusation that I was charged with and what I had to do with it.

Q You assumed, of course, that you were just there as an idle spectator?

A I was waiting for whatever was to come -- I was waiting for a surprise.

Q So, you were forewarned, when you were interrogated on the 14th of December, at Schwabisch Hall, if you were waiting for a surprise, is that correct?

A No, because what I was charged with at Schwabisch Hall, on the 17th, was like lightning out of a clear sky.

Q And what the interrogator said at Schwabisch Hall, at that time, was that you had been issued orders not to take prisoners and that that meant that you were to shoot them?

A Yes, I was charged with that.

Q And that came to you as a complete surprise?

A Yes, this explanation of these orders was a great surprise to me.

Q Despite the fact that a month prior you had discussed exactly the same subject with your men at Zuffenhausen?

A We didn't say anything about that in Zuffenhausen, neither any of my men, nor the men of the other Companies. We never even talked about any such explanations of those orders. I particularly asked them several times: "...Did I ever give you orders, according to which prisoners of war were to be shot...", and all of them assured me that that was never the case, and the 15th of December was never mentioned.

Q So, actually, as I understand your answer, you did discuss the proposition of your having issued orders to shoot prison-

(Christ - Cross)

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ers of war with your men, when you were at Zuffenhausen, is that correct?

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A Yes, as to whether I had ever given any such order. We conversed about that, because this charge was made generally in Ebensee; not only was I charged with it, but Lieutenant Fischer and Lieutenant Hennecke were charged with it also.

Q And so, when you were interrogated on this subject less than a month afterwards, at Schwabisch Hall, it came to you as a complete surprise, is that right?

A That such an order existed, of course, that was a complete surprise to me, and I denied it.

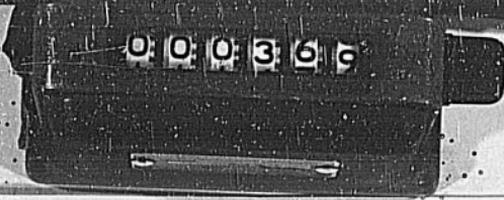
Q Christ, of course, you first denied that there had been any meeting of the men in your Company on the 15th of December, or that you had given any speech at all, didn't you? I am referring to your interrogation at Schwabisch Hall, on the 17th of December, 1945.

A I did not deny it: I immediately admitted it and, before that, there was never a word mentioned about any speech on the 15th of December.

Q Christ, didn't you say on direct examination that when you were first interrogated you could not remember anything about having given a speech on the 15th of December, 1944, and that it was only when the interrogator reminded you of that small automobile of yours, the camp fire, and the field desk, that the thing was recalled to your memory?

A No, I didn't say that and it wasn't like that: when I wrote my first statement in Schwabisch Hall, not a word was mentioned about my speech and then I was told that I had come to my Company on the 15th of December and that a fire was

(Christ - Cross)



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burning there and that I had made a speech, and then a statement by a man unknown to me was read to me and I immediately admitted that that was the case.

Q No, Christ, is your memory all right now?

A Yes, my memory is all right.

Q Didn't you testify within the last two minutes that when you wrote your first statement nothing was read and nothing was said about the speech that you had made to your Company?

A Yes.

Q Is that correct?

A I'm not sure that I understood the question.

Q Let me read to you from Prosecution Exhibit P-15, which is a statement made by you and dated the 17th of December, 1945:

"On this occasion, Poetschke stated that the impending battle would be the decisive battle. Among other things, he said that we should behave towards the enemy in such a way that we would create among them panic and terror and that the reputation for spreading panic and terror through our behavior should precede our troops, so that the enemy would be frightened even to meet them. Amongst other things, he also stated, in connection with this, that no prisoners should be taken. I add nothing to his talk nor did I take anything away from it, but on the same evening I repeated to my Company in the Blankenheim Forest that Poetschke -- what Poetschke had told to us".

Now, do you still insist that, when you made your first statement, that the talk that you made to your Company wasn't mentioned?

(Christ - Cross)

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A That isn't my first statement, that is my second statement: the first statement was never read to me here.

Q So, you claim that you made three statements, is that correct?

A Yes; I wrote three and a half statements and one of them was taken away from me again.

Q Now, you say that, when you were interrogated on the 17th of December, 1945, you were called a "lying pig", is that correct?

A Yes, there was even more than that said, not only that.

Q And you were told that you would hang for perjury?

A No, I never said that I would be hanged because of perjury.

Q Didn't you say that the interrogator told you that you would hang?

A I said that, yes.

Q And you thought that you would be taken right out and strung up with a rope, is that right?

A No, I didn't think that, because I asked afterwards when I would be tried and if I would get a defense counsel.

Q So, that the statement that you would hang had no influence on you whatever?

A At this time, there was only talk about hanging; and then, when the statements were written, that was then weakened somewhat, about the hanging -- after the statements had been written.

Q I'm asking if you believed it or not, when they told you that you would hang?

A At that time I believed everything, there was an American officer standing before me and I didn't then know the methods that were used in interrogations at Schwabisch Hall.

(Christ - Cross)

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Q You know the methods that were used as far as you were concerned, don't you?

A No, I also know the methods that were used with the other men.

Q And you know about these methods only from what they have told you, isn't that correct?

A Yes, I learned about that later.

Q Now, you also know that other people in Schwabisch Hall, besides the interrogating officer, called you a "lying pig", don't you?

A Yes, that was the order of the day: not only I was called a liar, but everyone who told the truth was called a liar.

Q You know that in March, 1946, three men of your Company, accused in this case, Ritzer, Siperski and Hoffman told you that you were a liar and that you should be man enough to admit having given them orders to shoot prisoners of war, because that is all you did, throughout the offensive --

DEFENSE (Mr. Strong): Objection. I submit to the court that this whole line of questioning in the last few minutes, is highly argumentative and intimidating.

PROSECUTION (Captain Schumacher): It is an entirely proper question. This witness is charged with having given orders to these men to shoot prisoners of war -- that's what the present accused is on trial for.

DEFENSE (Mr. Strong): We don't object to the question as such, and to the way -- and to its substance, but to the way they are being put to the witness.

PROSECUTION (Captain Schumacher): If the court please, I am not familiar with any rule of evidence that governs the

(Christ - Cross).

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tone of voice of counsel. We respectfully submit that the question is proper.

PRESIDENT: Proceed with your question.

Q All right, will you please answer the question?

A Yes, the men had to call me a liar at that time, and when they are called to the stand here, they will tell you why.

Q You've taken care of that, have you?

A I don't understand that?

Q You have discussed it with them, since you have become an accused?

A Yes, I have spoken to them.

Q Then the answer to my question is "yes", is that right?

A Yes, the men said that.

Q And do you remember that Rehagel, another of the accused, who is alleged to have shot at the crossroads south of Malmedy, on specific orders from you, also told you that you were a "lying pig" when you would deny that -- and told you that to your face, did he not?

A Yes, Rehagel himself will know best how that came about. I know it, too.

PRESIDENT: The court will recess until 1030.

(Whereupon, at the direction of the President, the court recessed at 1000 hours.)

(Christ - Cross)

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(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If the court please, let the record show that all members of the court, all members of the prosecution with the exception of Lt. Col. Crawford who is absent on business for the prosecution and Captain Byrne, who has been excused by verbal order of the Commanding General, all members of the defense with the exception of Dr. Rau, Dr. Pfister, and Dr. Leiling, who are absent on business for the defense, all of the defendants, and the reporter are present.

DEFENSE COUNSEL: The defense recalls the accused Freidrich Christ.

(Whereupon the witness, Freidrich Christ, resumed the stand and testified further as follows:)

CROSS-EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Captain Jhumacker):

Q Christ, I believe you testified on direct examination that prior to the Eifel Offensive you gave the men of your Company specific and definite instructions as to their conduct with reference to the treatment and handling of prisoners of war?

A Yes.

Q And you also told your men how they should behave in event they were captured?

A Yes.

Q You told them that they need only give their name and their rank and their feldpost number, as provided by the rules of the Geneva Convention, is that correct?

A Yes.

Q Where have you ever seen anything in the Geneva Convention about giving a feldpost number?

A I never had the Geneva directives in my hands.

Q You mean you, as an SS officer, never read the rules of the Geneva Convention?

(Christ - Cross)

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A Yes, I did read them.

Q I thought you just said you never had them in your hand?

A I meant to say I never had a book in my hands which contained all the instructions of the Geneva Convention.

Q I'll ask you once again: Did you ever read the rules of the Geneva Convention, whether in a book, a pamphlet, or in a manual, in your life?

A I had the part in my hand which concerns us, that of the prisoners of war and those are general orders and I know about them.

Q That's what I'm asking you, about the rules of the Geneva Convention with respect to prisoners of war. Now, where in those rules have you ever seen anything about giving a feldpost number by a soldier when he is captured?

A I cannot state with one hundred percent certainty that this was contained in the rules. It was only my opinion that this belonged to it, too.

Q Also, prior to the offensive you explained to the men in your company that they, being members of a --

DEFENSE COUNSEL: (Dr. Hertkorn) The witness has intention to state another sentence and he started with the prisoners of war and then Captain Shumacker interrupted him.

PROSECUTION: If the court please, may we have this translated so the prosecution will know what's going on.

PRESIDENT: That's what we're trying to do.

INTERPRETER: He only repeated what I said before. He wasn't sure it was translated because he doesn't understand English.

PROSECUTION: I don't understand what he's saying and he's been talking for several seconds.

QUESTIONS BY PROSECUTION (Captain Shumacker):

Q I wasn't conscious of having interrupted the witness. Were you through, Christ?

A No, I was not through.

(Christ - Cross)

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Q Go ahead.

A I wanted to say that I remember with certainty the special order which we received and according to which American soldiers were instructed to give their name, rank and AFO number.

Q You are sure that you saw that order?

A Yes, we received this order.

Q So you instructed your men in accordance with what you understood Americans to do, rather than according to the rules of the Geneva Convention?

A No, with reference to the instructions I gave I especially pointed out that there had to be silence about that and set up as an example for instructions the American soldiers received.

Q You told your men also how they were to treat prisoners of war in event they captured them?

A Yes, I told them that too.

Q But you also told them they weren't to capture any, didn't you, because they were members of an armored group and had no time to fool with prisoners of war?

A There might always be an occasion that prisoners of war have to be taken and this instruction of mine only referred to the offensive in the Ardennes and to the first event of the armored group.

Q With special reference to the Ardennes Offensive, or the Eifel Offensive, as it has been referred to in this case, did you instruct your men that they were members of a fast moving armored group, that they shouldn't pay any attention to the flanks, that they would not take any prisoners of war, and that that would be taken care of by the Infantry following up, is that correct?

A Yes.

(Christ - Cross)

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Q What did you tell them to do about prisoners of war that were captured or who surrendered if they say no Infantry behind them?

A Directly to the rear there is always some Infantry following.

Q In other words, despite the imminent situation on either flank you were just going to instruct prisoners of war to walk back along the road of advance, is that right?

A In this case, yes.

Q No members of any tank crews were to guard the surrendered prisoners?

A I don't know if I understand the question correctly. I don't know whether at the time of the Eifel Offensive there were some crews of knocked-out tanks.

Q I'm not talking about what situation existed. I'm talking about instructions you gave your men. Did you instruct any of the members of the Second Panzer Company that they were to fall out of the column and guard prisoners of war until the Infantry caught up with them?

A No, I did not tell them that. I would have forbidden it.

Q And, as far as you know, no men of your Company ever cropped out of the column to guard prisoners of war?

A That was not necessary. I was driving at the end of the first marching group.

Q I'll ask you the question again: Did you ever see any men of your company fall out of the column and guard prisoners of war?

A I don't know about which operation you are talking.

Q I'm talking about the Eifel Offensive.

A No, I already stated that no one of my company was ordered to go out of the column and to guard prisoners of war.

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There was no such necessity to do so as all the prisoners of war I saw were already guarded by infantrymen or parachutists.

Q Where, and when?

A That was during the Eifel Offensive. I remember that I saw prisoners of Wackersberg evacuated to the rear but it was not of any interest to me since I did not have anything to do with it.

Q Was it of any interest to you when you saw those prisoners of war shot at the Cross Roads south of Malmedy?

A No, it could not have been of any interest to me since I wasn't present.

Q You didn't know anything about it, did you?

A No.

Q You didn't find out about it until you were interrogated at Ebensee in August, 1945, did you?

A I did know that something had happened on the Cross Roads.

Q When did you know?

A I already knew about it in the Camp of Teraberg. That was immediately after the capitulation and I already knew about it when still in the area of La Gleize. I can no longer say. That day somebody talked something about it but nobody knew anything for sure. They were only questions, if this man or the other one would know anything, that something had happened on the Cross Roads.

Q Do you deny that you made a thorough investigation of the men in the Second Panzer Company to determine whether or not any of your men participated in the shooting at the Cross Roads south of Malmedy on 17 December 1944?

A That was not necessary because no one of my men participated in the occurrences on the Cross Roads south of Malmedy. My column was always the first formation.

Q Christ, will you please answer my question. I asked

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you if you deny making a thorough investigation to determine whether the men in your company participated in that massacre. I'm asking you whether or not you made that investigation?

A I did not make an investigation among the men of my company. I only was asked whether or not I knew something, anything about it and I answered it negatively and answered the statement for my men with "No".

Q Who asked you whether you knew anything about it?

A That was once in the CP of the battalion and I don't remember any more when it was but it must have been after the break-out of the encirclement of La Gleize.

Q You never received an order to make an investigation insofar as your company was concerned?

A Of course I did receive this order and the order was given me in the form that I was asked, and then that question was an order to me and I immediately carried out this order and that I answered upon this question: "Nothing had happened in my place. I don't know anything about it. No one of my company could have participated."

Q Christ, after you attended this meeting conducted by Poetschke, you discussed the contents of the instructions you had received with the Commanding Officer of the First Company, Obersturnfuhrer Kremser, did you not?

PROSECUTION (Captain Shumacker): Excuse me, there's been a mistake in the translation.

INTERPRETER: Will you read the question?

(Whereupon the reporter did as requested.)

A I did not talk to all the Commanding Officers but only to the Company Commander, First Lieutenant Kremser, and that was on the trip to the company.

Q And the reason you had a discussion with Kremser was because you were afraid to assume the responsibility of passing

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on these orders to your company but you decided that you would do so, isn't that the plain truth?

A No, those orders were not unusual for us. We did not discuss those orders. They were not important. The important thing was the offensive and what was going to happen during the next days.

Q If the orders weren't important or didn't worry you at all, why were you so careful to put this in your statement, which is Prosecution's Exhibit "P-15" and "P-15A":

"....On my own, I added nothing to his talk nor did I take anything away from it, but on the same evening I repeated to my company in the Blankenheim Forest what Poetschke had told to us."

A Those were not my ideas. I already said that. I was asked whether or not I had talked to somebody, I said: "Yes, with Kremser." But in this connection as it is in the statement it was brought up by my interrogator.

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Q And it was your interrogator's insistence that you didn't elaborate on those orders at all?

A Yes, it was the only thing I could say to him and I said it to him and what he wanted me to say he dictated to me, but in another interpretation; in a different interpretation. At that time I did not have an opinion any more. It was the opinion of my interrogator and if I wanted to defend myself and make objections I was told to be silent and was cursed at and

Q And because you were told to be silent and were cursed at why you just wrote anything the interrogator wanted you to write?

A I made objections but I was--but every time I was yelled at and I was told to shut up and those matters were completely uninteresting for the interrogator.

Q And the interrogator didn't want you to say anything about having given orders to shoot prisoners of war, did he?

A Yes, he wanted me to do so.

Q Why didn't you write that when he dictated it to you?

A Because it was not said. Only that was reduced to writing was what I had stated, or what I was supposed to have stated.

But the interrogator told me and it said--and it also said so in the statement--which was shown to me, that I did not say that prisoners of war would be shot.

Q So that is the reason you didn't put it in this statement dated 17th December, 1944?

A It wasn't reduced to writing.

Q You mean the interrogator showed you somebody else's statement which said that in your speech you did not give an order telling your men to shoot prisoners of war?

A Yes. But it was added to it that the order was to be understood that way, that prisoners of war were to be shot.

Q And none of your men in your company misunderstood your order?

(Christ - cross).

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A Not at that time when I gave the order. Only in Schwaibisch Hall.

Q And not at the time they participated in the alleged shooting of prisoners of war in December 1944?

A No.

Q One other question. You will recall, Christ, that you were interrogated again in March 1946, at Schwaibisch Hall, at which time you were asked and questioned about specific orders that you had given to certain men of your company, with reference to definite acts involving the shootings of prisoners of war during the Bifel offensive in December 1944. Is that true? Now I am just asking you if you were interrogated on that subject?

A That was a rather long question. May I repeat it? You mean I was questioned in Schwaibisch Hall in March, whether or not I had given special orders in special situations?

Q That is right. That is what I mean.

A For instance, the orders for shooting. Yes, I was interrogated. I was questioned about that.

Q I will ask you if you didn't tell Mr. Slowitz, sitting here at the Prosecution's table, on that occasion that you were not going to make any statement about it; that you had seen plenty of death in your five or six years in the army and if you were going to die, you would die like a man and not squeal on your comrades. And didn't you further state that you hoped the Americans would not judge the men that we had there at Schwaibisch Hall as a sample of seasoned SS troops, that we must certainly know the psychology of the German to be able to elicit the mass of information we had secured. Of course those are not your exact words.

A That is not the substance, either.

Q All right; what was the substance?

A I remember that we were talking about those methods, but

(Christ - cross).

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not in this meaning. And I have to give the following explanations to that. I was told men like Feiper, Diefenthal and yourself, to which the Third Reich gave everything they wanted, had to die. They had no right to live any more. They only are a burden for us Americans. The circle in which you are so close now, they only say they are able to take you out and then it was clear to me and among other things I was told, and on the basis of those stories it was clear to me that we did not have anything to expect and it was only a question of days or weeks. And on this occasion I told Mr. Kirschbaum it did not matter at all whether <sup>I</sup> would admit a thing, or whether I would deny it. We have to die anyway and that I was charged with and my men were charged with never happened and for this reason he would never receive any affirmative answer.

Q You said nothing, then, about being ashamed of the fact that as many men as you knew about had squealed on that account?

A Yes, I said this. That I was ashamed of those men who permitted themselves to be used for testimony and charges against their own comrades, because all those statements were invented.

Q You were not referring to the men who had signed confessions that implicated themselves as well as their comrades? Now you can answer that yes or no, can't you?

A In the statement I make I only charged myself because I was constantly told that my men would be hanged for me. It was during my first interrogation, the 17th. It was also reason why I surrendered to my fate, and because I, as company commander, was responsible for that and my men were not responsible.

Q Now, are you telling us now that the reason you surrendered to your fate, as you call it, is because you had seen a mass of statements, or had been confronted by many of your comrades?

A I am now talking about the first interrogation in Schwabisch Hall on the 17th December. At that time nobody was confronted with me.

(Christ - cross).

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Q Do you remember my question when you jumped from March back to December in your testimony?

A Yes.

Q Well, just a minute! Would you mind answering my question?

A Yes. The interrogation in December and the interrogation in March are connected very closely.

Q I thought you had forgotten my question. My question was a very simple one. I asked this question: Were the men that you referred to in your previous answer men of your company who had made confessions implicating themselves as well as their comrades? And I am talking about your interview or interrogation in March 1946?

A Yes. They were men of my company.

Q So your comments were not directed to what might be termed false witnesses or stool pigeons?

A I considered them to be false witnesses at that time.

Q Do you consider the man who admitted having shot prisoners of war himself as a false witness?

A I was only confronted with those men and I knew that they did not shoot any prisoners and that is the reason why I considered them as false witnesses.

Q Who were you confronted with?

A I was confronted with Ritzer, Szyporski, Rehagel and Rumpf.

Q And you were with all four of those men every minute during the Bifel offensive?

A I was together with the men of my company. I don't want to say every minute but I was together with them where those occurrences are supposed to have happened.

Q Were you with Rehagel on the cross roads between one and two o'clock on the 17th of December 1944?

A No.

Q Well how do you know what he did there at that time and on that date?

(Christ - cross).

A A I am not talking about Rehagel now, I am talking about the men of my company. I was just about to finish one sentence in regard to Rehagel and Rumpf but I did not have a chance.

Q Was Ritzer in your tank on the 19th of December 1944, in Stoumont?

A No, he was not in my tank.

PROSECUTION (Capt. Shumacker): Nothing further.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Hertkorn):

Q Did all your other men of your company call you a liar except those which--except those mentioned by the Prosecution?

A No.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Were you confronted with any others than those named?

A Yes.

Q Who?

A Vollbrecht.

Q I am talking about the accused. Men who had confessed to having shot prisoners of war.

A I was only confronted with three men of my company and those are charged with having shot prisoners of war.

PROSECUTION (Capt. Shumacker): Nothing further.

DEFENSE COUNSEL: Nothing further on direct examination.

PRESIDENT: Any questions by the Court?

LAW MEMBER: I have a question. By the Court.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q When you were at Ebensee did you talk to any of the following men: Willi Haat, Kurt Bauer, Max Martins, Ernest Tonke?

A I remember Tonke and Martins. At this moment I can't mention who Haat is.

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Q Unterscharfuhrer Kurt Bauer?

A I can't think who Bauer is. I only remember those two.

Q At that time did you discuss--or any time while you were in Ebensee, did you discuss with those men whom you knew the shooting of Civilians at Wanne on the 20th of December 1944?

A No. I could not do that because I was not in Wanne on the 20th of December at all, and because I was not familiar with the conditions in Wanne. It might be possible that those men brought up those problems in some way but I don't know anything about that and I don't know anything about that and I don't know when this talk about the civilians took place, since I was not in Wanne at that time.

PRESIDENT: Any further questions by the Court? Apparently none. The witness is excused.

(Whereupon the witness was excused and resumed his seat.)

DEFENSE COUNSEL: The Defense calls as its next witness Oskar Maurer. Dr. Hertkorn, on behalf of the Defense, will conduct the direct examination. The Defense contemplates recalling this witness.

OSKAR MAURER, called as a witness for the Defense, was sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Hertkorn):

Q Give the Court your name?

A Maurer.

Q First name?

A Oskar Wilhelm.

Q How old are you?

A 21 years old.

Q Since when were you a member of the 1st SS Panzer Regiment?

A Since June 1944.

Q In which company?

A Second Panzer Company, 1st Panzer Regiment.

(Maurer - direct)

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Q Which platoon?

A Third platoon.

Q Who was your platoon leader?

A 2nd Lt. Koch.

Q Were you present at the issuance of orders immediately prior to the beginning of the Eifel Offensive?

A Yes.

Q When did that take place?

A On the 15th of December.

Q And where.

A In the Blankenheim forest.

Q Who made a speech there?

A 1st Lt. Christ.

Q Give us very briefly the material substance of this speech?

A This is the last chance which we have to decide the war.

We have to break through without looking to the right or to the left. We should not allow ourselves to be stopped. We were to think of the bombing terror. The group of Skorzeny had to precede us and was committed before us and they were to bring panic and fright among the lines of the enemy. During that advance we were not supposed to concern ourselves with prisoners of war. That is the contents.

Q Do you remember whether in this speech anything was mentioned about any civilians?

A No.

Q How did you consider this order not to concern yourselves with prisoners?

A In the same way as every Panzer man had to consider it, and how it was explained to me during instructions. That is, we were not to bring in prisoners of war.

Q Were you told during your instructions anything about what was to happen to prisoners of war if they were already taken and brought in?

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A Yes.

Q What?

A Yes, we were told that we were to treat the prisoners in the same way as we desired to be treated by the enemy.

Q Were you told anything about who was to guard the prisoners or what you have to do with them?

A We, as an armored group, had not to do much with prisoners of war and we were not to concern ourselves with them. For this reason we were only told that we were to evacuate the prisoners to the rear and if possible to deliver them to the 1-C.

Q What were you told about the guarding of prisoners and the treatment of prisoners with reference to your being an armored group?

A As I already said, we were not to concern ourselves with prisoners. We were only told that we were to direct the prisoners to the rear. We could not concern ourselves with them because there were too many people who were needed for the guarding.

Q Yes. After the speech of the company commander, did you hear any other speech in your company prior to the Eifel Offensive?

A Yes.

Q By whom?

A Our platoon leader, 2nd Lt. Koch made it.

Q Where?

A That was in the Schmidheim forest.

Q What was the contents of this speech?

A At that time 2nd Lt. Koch came back from the company commander. He brought a map along where the route of march was drawn in and, in addition to other explanations referring to the treatment of prisoners of war, he said the following: It is forbidden to mistreat prisoners or to take away valuables or watches and it is furthermore forbidden to rob dead bodies. Everybody who violates those regulations will be punished.

(Maurer - direct)

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Q Did you receive any instructions in your troop as to the treatment of prisoners, according to the International Law and the Geneva Convention?

A Yes.

Q What was said about treatment and the rights of prisoners?

A The prisoners of war was only to give his name, his date of birth and he was not supposed to walk immediately behind the enemy lines. And the prisoner of war was not supposed to give any further information.

DEFENSE COUNSEL (Dr. Hertkorn): Thank you.

DEFENSE COUNSEL: You may cross examine.

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CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q How old are you, Mauer?

A 21 years old.

Q How long had you been in the SS at the time of this offensive in December 1944?

A One and one-quarter years.

Q Had you been in the LSSAH the entire time of your service with the SS?

A No.

Q How long had you been with the LSSAH?

A At that time, four months.

Q You say you were told that when prisoners of war were captured the information they had to divulge, the only information they had to divulge was their name and date of birth, is that correct?

A Yes.

Q You had thorough training in the rules of the Geneva Convention as applying to prisoners of war?

A I was told about the treatment of prisoners of war during the time of my basic training.

Q Well, you were told about it just a few days before the offensive started, were you not?

A Yes.

Q And you were told the same thing, that they had to give their name and their date of birth?

A No.

Q Well, what did they tell you?

A I certainly forgot something. We furthermore

(Mauer-Cross)

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Tk #256-SR-6/25-SR-2

were told that the pay book was to be destroyed, we were allowed to keep our identification tag, and furthermore, we could give our residence, name of our parents, whether or not we were married.

Q Anything else?

A At this moment I can't answer.

Q In other words, you were told you could give just about any information you wanted to if you were captured so long as you did not divulge military secrets?

A Yes.

Q And American prisoners of war, if they were captured, were supposed to do the same thing, but were not required to divulge military information?

A That did not concern myself.

Q Were you instructed as to what treatment American prisoners of war were to be accorded if they were captured?

A I already said they were sent back.

Q You misunderstand the question, Mauer. I am not talking about how they were to be evacuated. I am talking about how they were to be treated and what information they were required to divulge and so forth. I repeat my question. Were American prisoners of war supposed to divulge personal information such as you have described and everything else requested of them except military information?

A I never got into touch with any American prisoners of war and therefore, I can't say anything about it.

Q Did you receive any instructions prior to this offensive as to how enemy prisoners of war were to be treated if captured?

(Mauer-Cross)

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A Yes, of course, I already said so.

Q I am not talking about their evacuation. I am talking about how they might be interrogated, what information they were required to divulge and so forth. Were you instructed on such matters as those?

A A soldier who takes an enemy prisoner of war will not concern himself with the name or the birth date of the prisoner. He will take away his weapons. Then he will take him to the rear in order to deliver him to his superior officer.

Q Mauer, did you understand my question?

A Yes, of course.

Q I asked you if you had received instructions as to the treatment you were to accord enemy prisoners of war if you captured them, immediately before the offensive began?

A That is what we are constantly talking about.

Q You had this company meeting that was conducted by Obersturmfuehrer Christ on the 15th of December 1944 with respect to this coming offensive, did you not?

A Yes.

Q And he gave a speech to you on that occasion?

A Yes.

Q And he told you that in the offensive no prisoners of war were to be taken and you understood that to mean that the infantry behind would pick them up when they came along? Is that correct?

A That doesn't have anything to do with infantry. I mean the units which follow.

Q All right. The units following behind were to take care of those prisoners of war, is that correct?

(Mauer-Cross)

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A Yes.

Q Did Christ tell you in that talk that if you were taken prisoner of war you only had to give your name and the date of your birth and who your family was and where you lived and so forth?

A Not in this speech.

Q Did he tell you in any other speech what information you had to divulge, that he gave to you in the month of December 1944?

A Yes, of course, he said it.

Q And he told you that if you were taken prisoner that the only information you had to divulge was your name, the date of your birth, the name of your family, your residence, whether or not you were married and other personal information, but no military information, is that correct?

A Yes, he said it.

Q And he also told you that if you took any enemy prisoners of war they were required to divulge the same information as the German soldier if he were captured, is that correct?

A He did not say that we were to demand information.

Q What did he say?

A That we can inquire of them to give that information.

Q That you can require them to give that information, is that correct?

A Yes.

Q And did he give you any other instructions about the provisions of the Geneva Convention as apply to prisoners

(Mauer-Cross)

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of war?

A At this moment I can't think of any.

Q How long have you been here at Dachau, Maurer?

A In Dachau? Eleven weeks.

Q When did you last talk to Vollprecht?

A Ten minutes ago.

Q When did you last talk to Bunda?

A This morning at breakfast.

Q Both Vollprecht and Bunda were in tank number 231 with you during the Eifel Offensive, were they not?

A Yes.

Q And you were the gunner in that tank?

A Yes.

Q And since being here at Dachau you and Vollprecht and Bunda have rehearsed this order, that speech that Christ gave on 15 December 1944?

MR. STRONG: We object to this line of questioning, which is certainly improper cross examination and has not been brought out on direct. The question whether the witness has rehearsed the testimony with other witnesses to be called are certainly intimidating questions.

LAW MEMBER: What is the purpose of this line of questioning?

CAPTAIN SHUMACKER: I want to find out if the witness is testifying from his own memory or what his comrades have told him. We submit it is proper cross examination.

MR. STRONG: The witness has been sworn and it is presumed that he is testifying to the truth -- anyway until the Prosecution proves to the contrary.

(Maurer-Cross)

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CAPTAIN SHUMACKER: That is a presumption unknown to the Prosecution. If the Court please, we submit that counsel on either side has a right to cross examine any witness to test his credibility.

PRESIDENT: The objection is overruled.

CAPTAIN SHUMACKER: Will the reporter please read the question?

(Whereupon the last question was read by the reporter as follows:

"And since being here at Dachau you and Valprecht and Bunde have rehearsed this order, that speech that Christ gave on 15 December 1944?")

THE WITNESS: I talked to them about it but I already wrote about this order in my statement in Schwaebisch Hall. This statement was torn up in Schwaebisch Hall by a 1st Lieutenant with the words, "Mauer, you are too smart for us."

CAPTAIN SHUMACKER: Is that your opinion likewise?

DEFENSE COUNSEL: May it please the Court, I object to the question.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q You say you are 21 now, is that right, Mauer?

A Yes.

Q At the age of 16 you were a Hitler Youth Leader, were you not, with 180 men under you?

A Yes.

Q And you attended a special Hitler Youth Leader's School, did you not?

A The question is, which is the way you mean it. Do you mean as a participant or what?

(Mauer-Cross)

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Q I mean as a student.

A No, you are mistaken.

Q In what capacity then?

A As a visitor. I paid a visit to one of my comrades.

Q In other words, you never had any connection with the school?

A No.

Q You did not tell Mr. Kirschbaum here yesterday that you were a student at that school?

A He had asked me whether or not I had visited the Leader's School and I said yes.

Q He was just curious to find out if you had ever been in the vicinity of a Hitler Youth School, is that right?

A In the vicinity? Yes.

CAPTAIN SHUMACKER: That is all.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (DR. HERTKORN):

Q Is it possible that Christ, during the instructions about the treatment of the prisoners of war according to international law said more than you can remember today?

CAPTAIN SHUMACKER: If the court please, we object to that question. Of course, it is possible that Christ could have said anything.

MR. STRONG: This question seems to be perfectly proper. It is merely a question to refresh the witness' memory.

CAPTAIN SHUMACKER: We submit that the witness

(Mauer-Cross)

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can be asked, "What else, if you remember, that Christ said in his speech" but not "Is it possible he said something else."

LAW MEMBER: It would please the Court and it would be much better if you would rephrase this question.

DR. HERTKORN: Did Christ say anything to the effect whether or not prisoners of war were required to state their units or give some other information of their units during the course of their instruction?

THE WITNESS: Yes, as far as I can remember it is permitted to state the unit.

DR. HERTKORN: That is all.

#### RE-CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q You say your understanding of the instructions was that a soldier could be required to give his unit, is that right?

A Yes.

CAPTAIN SHUMACKER: That is all.

DEFENSE COUNSEL: Nothing further.

PRESIDENT: Questions by the Court?

#### EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Were you a member of Christ's Company during the entire Eifel Campaign?

A Yes.

Q Did the company stay together at all times?

A Some losses were right at the beginning of the attack. Some tanks were knocked out near Honsfeld, later on

(Maurer-Court)

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in Engelsdorf so that the company never stayed together in close formation.

Q Did you and the other men of your company sing songs on the night of 15-16 December, just before the offensive began?

A Yes.

Q What were those songs?

A Partly old combat songs and partly songs of soldiers.

Q What time of the night was this?

A We already sang before that and later on when Christ arrived.

Q What time of the night was it when you sang the songs, approximately?

A Five o'clock.

Q Did Christ, when he instructed you with reference to prisoners of war, state that the prisoners were required to give their number?

A You mean the number of the prisoners of war?

Q Any number. Feldpost number?

A It was permitted to give the unit but it was not permitted to give the code name of the unit.

Q Did Christ give you those instructions?

A I don't know whether or not Christ gave those instructions.

PRESIDENT: Any other questions by the Court?

Apparently not, the witness is excused -- Just a minute.

(Maurer-Court)

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REDIRECT EXAMINATION

QUESTIONS BY DR. HERTKORN:

Q Were there any members of the company ordered away from the company during the Eifel Offensive?

A Some men were assigned to the station, men whose tanks had been knocked out, as reserves.

Q Were any tanks hauled away?

A No.

Q You said before that the company did not stay together, that is, there were losses. Do you mean that not all the members --

CAPTAIN SHUMACKER (Interrupting): If the Court please, I object to this question. It is leading to tell the witness what he means.

MR. WALTERS: Why do you not wait till it is translated?

CAPTAIN SHUMACKER: If the Court please, I interrupted when he said, "Do you mean --".

LAW MEMBER: Finish the question.

DR. HERTKORN: Do you mean by that that all members of the company, that is according to the --

LAW MEMBER (Interrupting): That is sufficient enough to know the question is obviously leading. There is no question about it.

MR. STRONG: Counsel will rephrase the question.

PRESIDENT: Do that.

DR. HERTKORN: Did the company have only losses caused by combat or were there any damages of the motors?

CAPTAIN SHUMACKER: If the Court please, we will object to that question. It is leading. He has told

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the witness what losses they had.

LAW MEMBER: Obviously counsel for the Defense has been misled by a question on the part of the Court, whether or not the company stayed together during the entire offensive.

DR. HERTKORN: Yes.

LAW MEMBER: The Court had reference in the main to the day of the Malmedy incident, the 17th of December. The Court will rephrase the question, limiting it to the 17th of December, and will ask it in this manner: Was your company together as a whole in close formation on the 17th of December, the day after the offensive started?

THE WITNESS: Yes, with the exception of those vehicles which had been knocked out and sometimes it was not possible that the company drove in close formation because of the conditions of the road between Buellingen and Engelsdorf. Furthermore, we had an attack of fighter bombers.

LAW MEMBER: Does that straighten it out?

DR. HERTKORN: Yes.

QUESTIONS BY DEFENSE COUNSEL (DR. HERTKORN):

Q What was the condition of the road on the 17th of December until you reached Engelsdorf?

A The road was rather good until Buellingen and then it became boggy and led into a meadow and then through a forest and there were many vehicles blocking the road so that we could not advance.

Q Another question. You said the company was not together. In which place did they not stay together?

A It was shortly before Honsfeld when the vehicle of Sergeant Krueger detached itself from the company. Later on we drove into Honsfeld. The 1st and 2nd Platoon were

(Maurer-Redirect)

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rather far ahead of us, whereas the 3rd platoon had remained further behind so that when later on the 3rd platoon came to the curve in front of Honsfeld, two tanks of the 3rd platoon were knocked out.

Q When was the company in close formation again?

A The company was in close formation in Honsfeld and in Buellingen. In both the towns we refueled and also later on in Engelsdorf, shortly before we reached Engelsdorf, there was a stop in the road, in the curve of the road, and that is the place where the company got together in close formation again.

CAPTAIN SHUMACKER: If the Court please, Prosecution would like to reserve the right to further cross examine after the recess.

PRESIDENT: Court will recess until 1330 hours.  
(Whereupon the court recessed until 1330 hours.)

(Maurer-Redirect)

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: If the court please, let the record show that all members of the court, all members of the prosecution with the exception of Lt. Col. Crawford who is absent on business for the prosecution and Captain Byrne who has been excused by verbal order of the Commanding General, all members of the defense with the exception of Lt. Col. Dwinell, Dr. Rau, Dr. Leiling, Dr. Pfister, and Dr. Wieland who are absent on business for the defense, all of the defendants and the reporter are present.

DEFENSE COUNSEL: The defense recalls Oskar Maurer.

PROSECUTION (Captain Shumacker): If it please the court, There's no recross of this witness. Unless there's some further questions by the court or the defence we have no further use for him.

DEFENSE COUNSEL: Nothing further on behalf of the defense.

PRESIDENT: Are there any questions by the court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

DEFENSE COUNSEL: The defense calls as its next witness, Horst Vollsprecht. Dr. Hertkorn, on behalf of the defense, will conduct the direct examination. The defense contemplates recalling this witness.

HORST VOLLSPRECHT, a witness for the defense, was duly sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Hertkorn):

Q Give the court your first and your last name?

A Horst Vollsprecht.

Q When were you born?

A The 8th of March, 1924.

(Vollsprecht - Direct)

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Q Were you ever a member of the First SS Panzer Regiment?

A In June 1943.

Q Which company did you belong to prior to the Eifel Offensive?

A To the Second Company of the SS, of the First SS Panzer Regiment.

Q Who was the Commander of this Company?

A First Lieutenant Christ.

Q Which platoon did you belong to?

A I was in the Third Platoon in the tank of Second Lieutenant Koch.

Q Immediately prior to the Eifel Offensive did you participate in a conference of the Company?

A Yes.

Q Who made a speech?

A First Lieutenant Christ.

Q What and where did that take place?

A In the evening of the 15th of December in the Blankenheim Forest.

Q Do you remember the contents of this speech?

A Yes, I remember.

Q Tell the material substance of the speech very briefly?

A "This is our last chance to win the war and to break open. It depends very much on the effort of the armored group. We are not to allow ourselves to be stopped. We are not to look to the right or to the left. We are not supposed to permit ourselves to be stopped by booty or prisoners, and we are not supposed to take prisoners of war. The Air Force will be in front of us and will fuse things behind enemy lines."

Q Was anything said about civilians?

A Nothing was said about civilians.

Q Did you during your duty ever receive any instructions about the tactical use of prisoners of war by the Panzer troops?

(Vollsprecht - Direct)

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A Yes.

Q What were you told?

A A prisoner is not supposed to report anything except his name, his birth date, and his unit which is noted down on his dog tag, and his home address and family status.

Q Did you, during your tour of duty receive any instructions as to what Panzer troops were supposed to do with PW's during an advance?

A Yes.

Q What?

A That we were not supposed to bother PW's, that is, not to bring in PW's but leave that up to the units that followed.

Q Did you consider the saying of Lt. Christ that you were not supposed to bother about PW's as something extra-ordinary?

A No.

Q Why not?

A Because it is generally known with the Panzer troops that we cannot take PW's, that is, bring them in.

Q Did you hear another speech after the speech by Christ before the offensive?

A Yes.

Q By whom?

A By 2nd Lt. Koch.

Q What was the contents of this speech?

A 2nd Lt. Koch told us in the Schmidtheim Forest in the morning of the 16th December, that we were not supposed to mistreat PW's in any manner -- any way, not to mistreat them nor take any valuables away from them. Furthermore, we were not supposed to rob corpses, and 2nd Lt. Koch would personally punish every violation against his instructions; that he was the Platoon leader and was responsible for everything within the Platoon.

DEFENSE COUNSEL: You may cross-examine.

PROSECUTION: No cross-examination.

PRESIDENT: Are there questions by the court? Apparently not. The witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

DEFENSE COUNSEL: The defense calls as its next witness, the accused, Hans Hennecke. Mr. Strong will conduct the direct examination on behalf of the defense. The defense does not contemplate recalling this witness.

HANS HENNECKE, one of the accused, took the stand and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Strong):

Q Give the court your full name?

A Hans Hennecke.

Q When were you born?

A I was born the 25th of August, 1922.

Q When did you join the Leibstandarte Adolph Hitler?

A I entered the Leibstandarte on the 14th of November, 1939, as a volunteer.

Q And how long did you remain with that?

A Until 31st of August, 1940.

Q Will you give us the reasons why you left the Leibstandarte?

A In August 1940 I was on guard in the Reichschancellery and committed some violation of rules, was punished, disciplined and transferred because of that.

Q Where did you go?

A I was transferred punitively as guard to the concentration camp of Buchenwald.

Q How long did you remain there?

A Until spring 1941.

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Q When did you join the Leibstandarte again?

A In June or July, 1943.

Q When did you become an officer?

A On the 10th of March, 1943.

Q Did you have any second experience caused by violation of any order or rules by you for which you were punished?

A In August 1940 I was a driver in the Anti-Aircraft Battalion in the east and had an accident there in the east in my car in which several persons were injured. I was put before a court martial and was punished by six months of jail because of carelessness and causing a personal injury.

Q Did you appeal from this sentence?

A I appealed and was acquitted in a new trial.

Q Were you ever a member of the Party?

A No.

Q What position did you hold during the so-called Eifel Offensive, to-wit, the months of December 1944 and January 1945?

A I was Platoon Leader of the First Platoon of the First Company.

Q Who was your Company Commander?

A My Company Commander was Obersturmfuehrer Karl Kremser.

Q Who were the leaders of the two other platoons?

A Obersturmfuehrer, Tech Sergeant Toomis, and Tech Sergeant Strelow.

Q Were you in charge and command of the First Company on or about 15 December, 1944?

A What do you mean -- "command"?

Q Were you Company Commander of the First Company on 15 December 1944?

A No, I was Platoon Leader.

Q When did you take over the command, and why -- the command of the company, and why?

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A On the 18th of December, while attacking Stavelot, my Company Commander, Lt. Kremsler, was wounded and I took over the command of the tanks of the First Company and got rid of this command again at the end of December a few days after we got out of the encirclements of Ia Gleize.

Q Were you ever at Fliesheim?

A Yes.

Q Approximately when and for how long?

A About four weeks, that is at the end of November 1944 until the beginning of the offensive the 14th of December, 1944.

Q Did you ever, while in Fliesheim, make a speech to your company?

A No.

Q Did you ever make a speech to your platoon?

A No.

Q Did you ever make any speech to any of the other platoons?

A No.

Q Then, according to you from the statement of the accused Kurt Briesemeister, which has been introduced as Prosecution's Exhibit "P-59", as follows, Record page 787:

"Until the 11th of December, 1944, our company was stationed in Friesheim, near Cologne. At the time we were still stationed in Friesheim therewith before the 11th of December, 1944. Ustuf. Hennecke delivered to us, the whole company, a speech in woods near Friesheim. Amongst other things Ustuf. Hennecke said in this speech that we should remember that the brothers and relatives of the Americans we were going to see have thrown bombs on Germany and that we should take revenge for that. Amongst other things he also said, 'Everything that comes before our barrels will be bumped off!'. I don't know if Ustuf Hennecke mentioned prisoners of war especially at that. However, from his words, it was clear to be seen that we should also take revenge on the prisoners of war in the coming offensive, and that no prisoners of war should be taken."

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Hennecke, is that statement true?

A No.

Q Did you ever make any speech in Friesheim at all?

A No.

Q When were you at Blankenheim Forest?

A We arrived in the morning of the 15th of December, 1944.

Q And how long did you remain there?

A Until midnight of the night from the 15th to the 16th of December.

Q Do you remember a speech made by your Company Commander Kremser in the Elenkenheim Forest, or to your company?

A Yes, Kremser talked to the company for quite a while. In the first part of his speech he talked about the tactical commitment of the company. The second part of his speech was more of a propoganda purpose.

Q Did he say anything about prisoners of war and, if so, what?

A He said -- however, I do not remember the exact wording of his speech at that time -- he said in a sense that no prisoners were to be taken.

Q Do you remember, Hennecke, the meeting of the platoon leaders and tank commanders on or about 15 December 1944, at which time Kremser also made a speech?

A The platoon leaders and some non-commissioned officers were sitting around the campfire; we discussed the coming offensive extensively and Obersturmfuehrer Kremser again gave us the job to again tell our men about his plans of the offensive.

Q Did this include his remarks about prisoners of war?

A Yes.

Q Now, did you convey Kremser's orders to your platoon?

A No, I merely told some of the men of my platoon whom

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I called from some of the tanks to some matters about tactics.

Q Did you convey to this man Kremser's remarks about prisoners of war?

A No.

Q If you speak about your platoon you mean the First Platoon, don't you?

A I didn't say anything to my platoon or any other.

Q Did you make any remarks to any members of the Third Platoon?

A After the speech of Kremser I went together with Tech Sergeant Skotz, who is the Commandant of the Third Platoon to his tank. Before the combat I had a personal argument with Skotz and I wanted to talk to Skotz because we were going into combat together and we didn't want to have any personal differences. I saw down with Skotz at the fire near his tank and we again talked here about the order of the coming offensive which Kremser had given us.

Q Was that in the form of a personal discussion of you with Skotz or was it in the form of a speech to the people around the campfire?

INTERPRETER: I didn't understand the question.

Q Was that in the form of a personal discussion between you and Skotz or was it in the form of a speech to the people gathered around the campfire?

A No, I just talked to Skotz about that in general by means of a conversation.

Q Hennecke, I read to you from Prosecution's Exhibit "P-43", Statement of the Accused Eckmann, page 596:

"Untersturmfuehrer Hennecke came on the same day between 6 and 7 o'clock in the evening to a small group sitting around the fire where I was also present. In this group were the crew of Hauptscharfuehrer Skotz, the crew of Oberscharfuehrer Thomas, and the crew of Unterscharfuehrer Neumann's tanks. At this occasion Untersturmfuehrer Hennecke gave us a pep talk. He told us that we will fight ruthlessly and that at Christmas we will be in Leittich. We will show the enemy what the SS is made of, and we won't take any

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prisoners of war. We will show the enemy how brutally the SS can fight. This talk was made by Hennecke in the forest near Blankenheim about on the same place where Krenser had spoken to the company."

Q Hennecke, is this statement true?

A No.

Q Did you make any speech to the men of the Third Platoon at the campfire of Skotz?

A No.

(Hennecke - Direct)

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Q Hennecke, I now call your attention to your own statement dated 11 January 1946, which forms Prosecutions Exhibit P-14.

In this statement you said as follows:

"Later the same day, Obersturmfuehrer KREMSER summoned the Tank Commanders, and with the Platoon Leaders we sat around the camp fire. Obersturmfuehrer said: 'When you go back to your tanks, repeat Peiper's order to your men. The men must know that exactly.' The order which is mentioned here is the order concerning the handling of the prisoners of war in this offensive.

"In our Regiment, among all the officers, non-coms and men, the order which Obersturmfuehrer KREMSER gave us was not known as anything else but "The order" of Standartenfuehrer PEIPER. It was always called "PEIPER'S order", and this was well known in the 1st SS Panzer Division LSSAH. Everybody knew that by that it was meant to shoot prisoners of war.

"After Kremser gave us this order, we returned to our crews. I went to the camp fire where the crew of Oberscharfuehrer SKOTZ and another crew were, and repeated the order given to us by Obersturmfuehrer KREMSER, which was the order about the shooting of prisoners of war."

Now, Hennecke, is this statement true?

A No.

Q Is it true that you went back to your men and repeated Kremser's order?

A No. I did not receive Kremser's orders.

Q Is it true that everybody in your regiment when the words "Peiper's order" were mentioned, knew it meant an order to shoot prisoners of war?

A No.

Q Now, Hennecke, if your statement which you signed at Schwaibisch Hall is not true, are you able to tell the court briefly why the statement was made and how you were induced to sign it?

A On the 11th of January, 1946, I was interrogated by Mr. Elowitz upon some orders that were issued. I told Mr. Elowitz that I neither knew of Kremser having given an order nor that I myself had given an order. I almost did not remember at all the afternoon of 15th of December. Mr. Elowitz then, in the course of this interrogation which lasted for several days, supported my memory by telling me, Do you remember the time when you reported the company to Kremser in the afternoon of 15th of December. Yes, that is true. That is

correct, I reported the company to him. He asked me to remember now that Kremser talked to the company. I said, Yes. He asked me if I could approximately repeat what Kremser had told us. I repeated it as far as I could remember. Mr. Elowitz then told me that he knew and that he could bring up witnesses that I have given instructions to my platoon also. I told him that I have never instructed my platoon at all about any such point. Mr. Elowitz did not believe me. I was further interrogated, and in the course of the interrogation the accused Eckmann and another witness, Hofmeister, were confronted with me. They testified in my presence that in the afternoon after the speech of Kremser that I had made a speech to my platoon. I asked Eckmann at various occasions if that was really true because I could not remember it. For this purpose Mr. Elowitz called Eckmann into my cell. Eckmann said, "Yes, you talked to us about that at the camp fire." I told Mr. Elowitz repeatedly that I was very willing to tell him the truth about all matters, even if they were to burden myself. I told Mr. Elowitz that I did not remember it and asked him if it really took place. Mr. Elowitz said yes. Thereupon I wrote down that I had made a speech.

Q But you are today definite that you never made such speech?

A I am quite definite.

Q Will you please explain to the court why the remark about Peiper's order came into your statement?

A During my first interrogation in Ebensee, if I remember correctly, I stated that an order--you can't really call it an order--instructions of Peiper existed to fight in combat, in future combat relentlessly and without regard. The Standartenfuehrer Peiper impressed us with this fact constantly during various and table exercises. He emphasized that we would have to fight in the future without any regard to ourselves or our machines; that in any future mission which was to come we would have to fight relentlessly,

as we could not win in any other way. These instructions of Peiper's, well, I told Mr. Elowitz about them. Mr. Elowitz then asked me if they had nothing to do with prisoners of war. I said, No. I then wrote down in my statement that the order which Krenser gave us was always known as the order of Peiper. I meant with that that we were not to spare ourselves. Subsequently I wrote down that the order meant to shoot prisoners of war. Mr. Elowitz dictated it to me and at the beginning I refused to write that in connection with that sentence. I wrote it down anyway, because I was not conscious of the fact of how much damage I could do with any such untruth and I am ashamed today that I denounced my regimental commander in such a manner.

Q Did Col. Peiper at any time from your own experience, issue an order not to take prisoners or to shoot prisoners?

A NO! Col. Peiper only emphasized in all the instructions that he was in charge of, that in any coming combat whether that be an offensive or defensive, we would have to fight relentlessly against ourselves and our own machines in order to produce victory.

Q Did you ever receive or hold any instructions in connection with the treatment of prisoners of war? Or give any instructions?

A During my entire tour of duty I often received instructions and very often gave them.

Q Did you ever give any instructions to the men of your 1st Platoon prior to the Eifel offensive. And, if so, when?

No, I did not give any such instructions, because the instructions about prisoners of war are matters for the company commander and the theme for the company commander.

Q When were you captured?

A I volunteered on the 11th of May, 1945, into the P.W. camp in the American P.W. camp of Utendorf. That was a thousand men, at that time, of our regiment.

Q You said that you volunteered?

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A A Yes.

Q Would you have had a chance to escape capture if you had wanted to?

A Before that I had very many chances to escape and until August I could have left the camp any time without anybody ever noticing it.

MR. STRONG: Your witness.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Mr. BElowitz):

Q Hennecke, I understand you state now that your statement of January 11, marked Prosecution's Exhibit P-14, is not the truth. Is that correct?

A That is correct.

Q You were a company commander, were you not?

A Yes, I was in charge,--I was twice in charge of a training company of the 1st Regiment.

Q Did you have a feeling of responsibility for the men of your company?

A When I am company commander, yes.

Q You wouldn't advise them to do anything that you thought was not for their best interests, would you?

A I did not quite understand the question.

Q The question is clear enough. You wouldn't advise your men of your company to do anything that was not for their best interest, would you?

A Yes.

Q Perhaps you didn't understand the question. Would you advise the men of your company to do anything that would harm them?

A No.

Q Do you remember speaking to Heinz Hofmeister at Schwaibisch Hall?

A Yes.

(Hennecke - direct)  
" - cross)

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Q Remember what you told him?

A While I was confronted with Heinz Hofmeister I told him-- it was in March or April--that he should tell the pure truth about everything he knew, should not spare himself because it wouldn't do him any good and not to try to protect anyone because the truth would come out anyway.

Q And you told him further that you had told the whole truth, isn't that right?

A I thought about many things which I wrote down that I had said the truth, but I was lying anyway.

Q But at the time you wrote them you knew that they were the truth? Is that right.

Q In the case of the first statement which was just discussed here I knew very well that I had not made a speech. However, I thought that my memory fooled me and depended upon that which you told me.

Q In other words, you mean that the reason you didn't tell the truth was because the statement was dictated to you? Is that right?

A No.

And if it wasn't dictated to you you would have spoken the truth. Is that correct?

A That is not correct as to all the details of this statement.

Q But if the statement was not being dictated to you--if you had an opportunity to testify yourself, forming your own words, there would be a tendency on your part to tell the whole truth?

A The reference that is made in this statement as to the speech to the crews of Skotz's tank, I would have after what happened to me in Schwaibisch Hall and the occurrence with Bokmann.

PROSECUTION (Mr. Elowitz): Just a moment. Just answer the question, that is all.

DEFENSE COUNSEL (Mr. Strong): May I ask the court to permit the witness to finish his sentence?

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PROSECUTION (Mr. Elowitz): The answer is obviously not responsive to the question.

MR. STRONG: The answer seems to be responsive. Read the question.

(Whereupon the question was read by the reporter.)

LAW MEMBER. The answer certainly is not responsive. Read the question again to the witness.

(Whereupon the question was read by the reporter and interpreted to the witness.)

A I cannot answer this question with yes or not. In my previous answer I was trying to give you an example.

PROSECUTION (Mr. Elowitz): Withdraw the question.

QUESTIONS BY PROSECUTION (Mr. Elowitz)

Q Do you remember being interrogated by a Major Fenton at Ebensee in August 1945?

A Yes.

Q Were your answers to that interrogation dictated by Major, then Captain, Fenton?

A No. It was a record of interrogation.

Q The answers were your own, in your own phraseology, were they not?

A Yes.

Q I will read you a portion of that interrogation and ask you if it is correct.

"Question: Isn't it true that it was the practice of your Panzer Regiment when you were leading an attack, you being the spearhead of the attack, to shoot prisoners or war rather than bother with them?"

"Answer: Yes, it is a fact. One cannot deny it."

DEFENSE COUNSEL (Mr. Strong): I object to that question on account that the witness is here confronted with a statement which has not been introduced in evidence. In fact, the Prosecution has taken out one sentence of the entire text. We do not know in which

(Hennecke - cross)

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connection this sentence was used. The witness may be able to furnish an explanation if he has a chance to see the entire connection in which the sentence appears in the statement as such.

PROSECUTION (Mr. Blowitz): May it please the Court, the question and answer is part of an interrogation which the witness has admitted took place and I am unfamiliar with any rule of procedure that prevents counsel from asking a witness whether he remembers if a portion of a former interrogation is true or not. If the witness desires to look at the former interrogation to refresh his memory, he is perfectly welcome.

PRESIDENT: Objection over ruled.

A I know that this answer is in the record, but I know-- I am sure that I didn't answer it that way. And I remember also that when this record was given to me for signature that I protested to Mr. Thon--or that I protested in the presence of Mr. Thon. This record was read to me on the 12th of December, 1945, in Schaisbisch Hall by Major Fenton. Mr. Thon translated it. Major Fenton gave me the opportunity to make various small changes, which I did. When he came to this question and answer I protested and said that I had never answered that way. We argued about it for quite a while. Thereupon Major Fenton said, "O.K., we will just leave it out." Thereupon I signed the record.

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Q Hennecke, wasn't this interrogation read back to you before you signed it?

A I already said that it was read to me and was translated by Mr. Thon.

Q And you wrote the statement prior to your signing it, is that not correct?

A That's correct.

Q Since you made such a violent protest concerning this one question and answer, why did you not have it crossed out in accordance with your testimony about Major Fanton agreeing to delete that one question and answer?

A Major Fanton told me that I could make small corrections such as time. However, I could not make any large corrections. You can see that in the record because I, for instance, changed the time in which I thought I had reached the crossroads.

Q You have made several other corrections in the record of your interrogation, have you not?

A Yes, various small corrections.

Q So then, either you did not wish to correct that particular question and answer or else you did not consider it important enough to correct it and mark your initials after your correction, is that right?

A No, that is not correct.

Q What is correct?

A I have already said that I protested against the answer.

Q That was the first time you were interrogated, was it not?

A Yes.

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Tk #259-SR-6/25-2

Q Hennecke, are you in the habit of making statements and signing your name to them and then finding out at a later date that what you signed and said was the untruth?

A It is this way: In many cases and in this case my memory failed me very badly. I often wrote down something which I thought was true but later had to find out that it was not true.

Q Then you are not even sure today whether it is true or not true, are you?

A What are you referring to?

Q I am referring to your statements, portions of which were read to you here in court today.

A That which I am testifying to today is that which I am giving to you based upon my best memory and since I have been in Dachau I have quieted down to such an extent that I am able now to think logically.

Q Hennecke, in view of your poor memory, do you think your memory in August 1945 was better concerning events that occurred in 1944, at that time or do you think it is better today?

A Better today.

Q Do you recall your statement, -- the sentence in your statement concerning the order regarding the shooting of prisoners of war was known all over the regiment as the Peiper order?

A I wrote it down the way you say it but it is not true.

Q Do you ever remember making a statement that it was known throughout the division as Peiper's order?

(Hennecke-Cross)

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A I know that I wrote it but that is in connection with what I just said now, that Peiper's idea as to how we were to behave ourselves in any coming campaign was known all over the division. Peiper's hardness toward himself, as well as toward us was very well known.

Q Did you ever remember being asked, "How do you know it was known throughout the division?"

A It is possible that I was asked that; however, I do not remember it.

Q Do you remember making a statement that at Ebensee you were in a prison with members of regiments other than the 1st Panzer Regiment of the 1st Division?

A It is correct that I made that statement. However, I emphasized that the so-called Peiper Order was known in the entire division and that members of the division that did not belong to our regiment confirmed the fact that it was known in the other regiments also.

Q Do you ever remember making the statement that members of the other regiments of the division at Ebensee stated to you that now that the war was over the members of the 1st Regiment were in hot water because of the shooting of prisoners of war by Peiper's Order?

A That I said that we, that is, members of the 1st Regiment, were in hot water because of the shooting of prisoners of war in the Eifel Offensive, I am certain I said that.

Q Hennecke, do you recall making a statement signed by you under oath dated 13 March 1945 and which was introduced in evidence by the Prosecution and was marked Prosecution Exhibit Number 78?

(Hennecke-Cross)

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A I wrote this statement on the 13th of March 1946.

Q And that statement represented the truth, is that correct?

A Untrue from the first to the last page.

Q Why did you write it?

A Because the member of the Prosecution, 1st Lieutenant Perl, had said he was a defense counsel in my trial and confirmed that by word of honor as an officer in the presence of Obersturmfuehrer Rumpf and Untersturmfuehrer Reiser, and told me that the only way for me to save my head was to write it down the way it is written down and it is humanly understandable that after one waits 48 hours to be hanged one would write down a thing like that.

Q Who represented themselves as helping you in that particular case, Hennecke?

MR. STRONG: May I make an objection, if the Court please? The Defense intended to present this case in a chronological order. This accused will take the stand at least twice again in connection with other incidents of which he is accused, at which time his two additional statements will be in issue. May I respectfully suggest that the Prosecution be directed by the Court to confine itself to this part of the case, issuance of orders in the Blankenheimer Forest, which is right now being presented by the Defense?

MR. ELWITZ: May it please the Court, as far as I understand, I think counsel making the objection and the Chief Defense Counsel are at variance with the procedure to be adopted by this witness. I distinctly heard the Chief Defense Counsel state that it was not contemplated that this witness would be recalled again.

(Hennecke-Cross)

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LAW MEMBER: That is what the Court understood.

DEFENSE COUNSEL: That statement was made by me from the information that I had furnished.

MR. ELWITZ: If the Court please, that is not the substantial basis of the claim, however. We have a right to go into every phase of this witness' testimony or his participation in any of the crimes alleged in the Charge at any time he takes the stand. Otherwise, this witness may leave the stand and refuse to retake the witness stand and not even his own counsel can force him to do that.

LAW MEMBER: While the Court wishes to cooperate with the Defense in the orderly presentation of the case and agrees that the case should be presented in a chronological order, the Court cannot direct the Prosecution to refrain from cross examining by virtue of the fact that it is purely within the prerogative of the witness whether he wishes to retake the stand and more particularly, in view of the fact that the Chief Defense Counsel stated that the witness would not take the stand. However, if the Chief Defense Counsel wishes to change his statement and declares that it is the intention to put this witness on the stand again, I believe the Prosecution can reasonably assume that that will take place. If not, the Court will draw such conclusions as it deems fit by his refusal to take the stand. However, the Court cannot and will not direct the Prosecution to take that stand.

DEFENSE COUNSEL: The only clarification I think that the Defense Counsel can make at this time is to the fact that the Defense contemplates recalling this witness, which is a change.

PROSECUTION: If the Court please, this is a

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rather fundamental rule in cross examination that you are asking us to overlook and I would like to ask for a few minutes to confer with my associate counsel.

LAW MEMBER: As I said before, we will not direct you nor ask you to do that. It is entirely up to you.

PROSECUTION: Just a moment, please.

PRESIDENT: Court will recess until 1530 hours.

(Whereupon at 1450 hours court recessed until 1530 hours.)

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If the court please, let the record show that all members of the court, all members of the prosecution except Lt. Col. Crawford, who is absent on business for the prosecution, and Captain Byrne, who has been excused upon verbal order of the Commanding General, all members of the defense with the exception of Lt. Col. Dwinell, Dr. Rau, Dr. Pfister, and Dr. Leiling, who are absent on business for the defense, all of the defendants and the reporter are present.

If the court please, we'd like to comply with the suggestion made by the court as to the cross-examination of the accused.

The Prosecution would like to state to the court its position with respect to the cross-examination of any accused who might choose to take the stand. We are as anxious as the defense to aid in the proper presentation of all evidence that is presented to this court. We believe, however, that a more comprehensive and coherent picture as to the guilt or innocence of each accused will unfold if all the alleged activities of each accused are gone into as a whole, rather than presenting his defense in a piece-meal fashion. We concede, however, this is a matter to be decided entirely by the accused and their counsel.

In many cases an accused has made a single statement about all his activities during the offensive. It appears at this stage in the trial that each accused will attempt to retract his statement and claim that it does not speak the truth. In doing so the accused attacks the method of interrogation employed to induce his statement. It is obvious that such accused cannot be effectively cross-examined as to the truth of his general contention if the prosecution decides to limit itself on cross-examination to each small portion of a statement that the

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accused has said is untrue on direct examination. Such a policy, though it might aid the defense, would handicap the prosecution to such an extent that its cross-examination of the accused would lose any effect it might otherwise have.

There is no power that can force an accused to resume the stand, and for the reasons stated as well as to protect the rights of the Government of the United States, whom the prosecution represents, the prosecution is compelled to be guided by what it deems most advantageous as each case arises.

PRESIDENT: That is clearly a prerogative of the prosecution. Proceed with the case.

DEFENSE COUNSEL: The defense recalls the accused Hans Hennecke.

HANS HENNECKE, one of the accused, resumed the stand and testified further through an interpreter as follows:

LAW MEMBER: Now, at this stage I might ask if there was any further objection you wanted to bring up, in view of the procedure which may have to be adopted from now on?

DEFENSE COUNSEL (Mr. Strong): If it pleases the court, we intend to recall the witness out of chronological order incidental to the instance which arises out of the cross-examination.

PROSECUTION (Mr. Elowitz): Do you have the last questions?

REPORTER: I am sorry, I do not.

#### CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Mr. Elowitz):

Q Hennecke, you made a statement that this exhibit, which was introduced in evidence as Prosecution's Exhibit 78, was a falsehood from beginning to end, is that correct?

A Yes.

Q Did you say that the entire statement was dictated by Lt. Perl?

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A Yes.

Q And you claim that it is a falsehood; it is merely Lt. Perl's dictation?

A Yes.

Q And you were merely the instrument through which it became written on paper, is that correct?

A If you call a man who writes something that somebody else tells him to an "instrument" then, yes.

Q That's right; that's what you said before?

A What did I say before?

Q Just that -- well, I'll continue. I'm going to read you a portion of that confession which was read into court and ask you if you remember it. This concerns the portion where you state that you received orders from Obersturmbannfuhrer Peiper to furnish execution details for the shooting of prisoners of war.

"After I had passed this order to Rumpf, I returned to Obersturmbannfuhrer Peiper and reported to him that I had executed his order. I cannot recall any more with which words I did this. On the occasion Untersturmfuhrer Reiser ordered to dispatch for the same shooting an execution detail from my company too. Here too I can remember the exact words. Untersturmfuhrer Reiser told me "Hein, you too dispatch one detail - one non-com and a few men for this shooting." "Hein" is the nickname by which I am called by my friends."

Is that true?

A NO.

Q Is "Hein" your nickname?

A Yes.

Q Oh, Lt. Perl didn't invent that, did he?

A He didn't invent that. That's my nickname. I don't know where Lt. Perl got it from.

Q Well, now, I'll read you another portion of it:

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"At this time I asked Reiser, "Vaeterchen, the execution detail of the 9th Company is here -- where should I send it?" Reiser answered, "To Diefenthal". I asked, "Where is Diefenthal?" Untersturmfuehrer Reiser said, "I do not know, send them to Peiper's C.P., Gruhle will know where Diefenthal is". "Vaeterchen" is Reiser's nickname."

Is that paragraph correct?

A The only memory I have from La Gleize was that one detail that Reiser and Diefenthal gave me the directive for doing that but I know exactly today that it was not an execution detail. I constantly repeated to Lt. Perl that I did not see any dead bodies in La Gleize of the numbers in which he described them to me and, therefore, shootings could not have happened there.

Q Well, is "Vaeterchen" Reiser's nickname -- that you know?

A Yes.

Q Then Lt. Perl did not invent that either, did he?

A No, he got the name from me.

Q How -- in the statement?

A I said that I had a memory, or a fragment of a memory that in La Gleize at one time I asked Reiser where I was supposed to send the detail to and that Reiser answered me with these words or in this form and that I connected this up with that shooting matter.

Q And that's how the statement was taken, wasn't it -- you supplied the facts and it was dictated by Lt. Perl?

A I did not supply facts, I actually put together fragments of memory and since Lt. Perl kept telling me that there was a shooting detail and since the accused Gruhle kept repeating to me that the detail which I ordered him to supply had been a shooting detail, for that reason I wrote that I couldn't do anything else for the reasons which I have mentioned before.

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Q Well, then despite the fact those are true words you managed to insert two true words into the statement, didn't you -- your nickname and Reiser's?

A I don't know what to answer to that.

Q Hennecke, you stated previously in the afternoon that you are ashamed now to tell about the statements you made against Peiper in your confession?

A Yes.

Q Is the first time you discovered you had that sensation of shame in court this afternoon?

A In Schwaebisch Hall we were played against each other in such a way that we didn't even realize that we insulted and incriminated each other.

Q Well, do you recall shortly after you wrote and signed this statement you had a conversation with Peiper in one of the interrogation cells?

A Yes.

Q Do you remember that Peiper had difficulty in recalling the incident you described in your statement with reference to the execution detail sent to shoot FW's?

A During a conversation when I told Col. Peiper about this statement he said that it never could have happened that way and that he never gave me any such order and that I must be mistaken.

Q And do you remember how you very politely argued with him and tried to help his memory?

A I repeatedly told Col. Peiper on occasion that he would have to remember that Reiser said the same thing and that Reiser would confirm it too and that he should remember it too.

Q And do you remember recalling Peiper's memory to the people who were in the CP at the time and where they stood when you received the order?

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A I did that but today I also no what order I received from Col. Peiper at the time.

Q And do you also remember explaining to Col. Peiper that for many weeks you had kept this information to yourself but finally, after weeks of strenuous interrogation, you had to come out with the truth?

A I told Col. Peiper when being confronted with him then that I did not read any of the details in La Gleize. I told him that after being confronted with First Lt. Rumpf. Some of the details which first Lt. Perl had told me and which were repeated to me by Rumpf were recalled in my memory and I repeatedly told Col. Peiper that if that had happened he should remember it and for him to please remember it since I had already been before a court and in that fashion, but that he kept repeating, "That cannot be correct", and he also said, "Hennecke, you're mistaken."

Q In any event, you didn't agree with Peiper, did you?

A I did not know how the matter in La Gleize was connected. I already said that in this statement fragments of memory which I happened to recall are thrown together. They were put together in such a manner that they fit together well and that they were brought down to a common denominator of shooting of prisoners of war.

Q Hennecke, did you really think that Lt. Perl was your defense counsel in Schwaebisch Hall?

A Yes.

Q You sincerely believed that?

A Yes, certainly.

Q Then you told him the complete truth, didn't you?

A Yes, but I wasn't supposed to write that down.

Q Is that the same thing that appears in your statement?

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A No, that's just it.

Q That's what you signed under oath, isn't it?

A Yes.

Q But you didn't give this information to Lt. Perl, your supposed defense counsel, until you were confronted by Lt. Rumpf, did you?

A I kept emphasizing that First Lt. Rumpf must be mistaken and asked to be confronted with First Lt. Rumpf. That happened and I kept telling Rumpf to tell the truth, whether I had really given him such an order to form an execution detail to shoot prisoners of war and he kept confirming that. And I remember that at one time I really had received an order to tell something to Lt. Rumpf from Col. Peiper but I really didn't remember what it was.

Q Well do you remember in your statement describing an incident in Stavelot where civilian women were shot by your radio operator without provocation?

A Yes.

Q Well, did you sign your name to that statement just to agree with Lt. Rumpf?

A First Lt. Rumpf has nothing at all to do with the case of Stavelot.

Q Well then, why did you agree to write that down in your confession?

A During the first trial where I was accused in Schwaebisch Hall I was read the charges by Mr. Thon. Among other things I was accused of giving Pfc. Godicke the order to shoot women in Stavelot. I denied that and said, "That's not correct." Upon that my defense counsel, 1st Lt. Perl, succeeded in adjourning the court, after severe argument with the prosecutor, Mr. Thon, and I was then locked into a death cell for a few hours in order to come back to my senses. First Lt. Perl took me out again after the noon meal and questioned

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me about the matter of Stavelot. I said I didn't know anything about it, so that Lt. Perl said that was very bad -- "that might mean your head."

Q Aren't you finished yet?

A No, I'm not. "The President of the Court had the intention of proceeding with the case in your absence and if you wouldn't admit that you'll be hanged." And I didn't admit anything because I didn't know anything. Upon that, Lt. Perl told me that possibly the trial might take place the next Monday, which was in two days, and if it didn't take place I'd be hanged within 48 hours. He said that the court had the authority to try my case in writing and that I would not have any further opportunity to defend myself. I did not make any statement and waited in my cell for what was going to happen.

Q Well, Hennecke, do you mean to state that after hearing the charges that Mr. Thon read to you that you were accused of shooting women and children in Stavelot, that you would completely exonerate yourself by signing a confession that you were in a tank that only shot down women?

A After a second trial 1st Lt. Perl kept telling me this for two days and I finally believed him.

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Q You sincerely believed that?

A I don't understand.

Q Did you sincerely believe that?

A That I would not be able to be punished any more; is that what you mean?

Q No, what I asked you was: Did you really believe that you were going to be hung unless you signed a confession?

A I signed the confession after the second trial not after the first one.

Q Well, weren't you encouraged to sign your name to this incident that occurred at Stavelot after Bokmann had described how he was an eye witness to the shooting?

A Bokmann described it before the court that he saw the radio operator fire. It was through this very testimony of Bokmann that I was completely confused.

Q Well, you were in court during the whole trial, Hennecke, and you heard survivors of this group of civilians, Belgian civilians--testify did you not?

A Yes.

Q Do you state now that you don't believe it happened?

A I only remember that one witness said that the commanding officer shot from the first tank with a machine pistol, and a machine gun fired from the last tank. I said that the witness stated that the commanding officer in the first tank shot at them with a machine pistol and the second witness said that the last tank shot at them with a machine gun.

Q Well, don't you remember that the testimony of the one witness concerning the officer who fired from the tank fitted you pretty well?

A No, I don't think so, because the officer was described as wearing a gray uniform with silver insignia. I was wearing a black leather jacket.

(Hennecke - cross)

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Q But it is possible those murders were committed, isn't it?

A No, it is not possible.

Q Just one or two more questions. Henneke, you testified that you never repeated the order--the subject of the speech you heard Kremser give to the company, to the members of your platoon. Is that right?

A I never repeated the speech to members of my platoon.

Q And you never repeated them to anyone, is that right?

A No.

Q Did Kremser give you instructions to repeat it to your platoon?

A Kremser told us when we left the camp fire that we were to notify our platoons of orders concerning the Eifel Offensive one more time.

Q Kremser's speech contained nothing incriminating, did it?

A What do you mean, "incriminating"?

Q Involving any one?

A Yes, he did say something to that effect.

Q Did he say prisoners of war would be shot?

A Kremser, in the substance, said the following: That no prisoners of war will be made; they are to be shot.

#### REDIRECT EXAMINATION

DEFENSE COUNSEL (Mr. Strong): I would like to have two minutes to glance at this Ebensee statement from which questions were asked of this witness. I am sorry to take up the Court's time but it is 23 pages.

FRESIDENT: That is all right. Go ahead.

QUESTIONS BY DEFENSE COUNSEL (Mr. Strong):

Q Henneke, I read you from the examination you underwent in Ebensee, questions and answers, and ask you whether this question and answer is true:

"Question: What orders did you have regarding the treatment--evacuation of prisoners of war?

"Answer: That weapons would be taken from them and we would

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search them for ammunition, then check their papers and they would be taken to another area."

Q Is this answer correct?

A Yes.

Q Did you tell the truth at that time?

A Yes.

Q I read you another question and answer:

"Question: What did Feiper say about prisoners of war?"

"Answer: Shortly before we assembled for the attack an order came from corps or army regarding prisoners of war. This order was then read all over."

Q Is that correct?

A That, to my knowledge, happened at the maneuvers at Friesheim.

Q And I continue. The question was asked:

"Continue?" And the answer was:

"Prisoners of war after capture were to be stripped of arms, ammunitions and evacuated to the rear. Special consideration was to be given to the American soldiers wearing the Red Cross, and we were not to fire on Red Cross vehicles, because the American and English were according the same respect to our Red Cross."

Q Is what you said in this answer true?

A Yes, that was in that order we received at that time.

Q "Then how do you account for the fact that some officers in IAH gave orders to the men that small groups of prisoners of war could not be bothered with and therefore would be shot?"

"Answer: I have no knowledge of such an order and know nothing about it."

Q Is that correct? Is this answer which you gave correct?

A Yes, that is correct.

Q I read to you.

"Question: You are lying. What would you say if I were to tell you that some of your men have admitted to such killing?"

"Answer: From my platoon that was with me in the attack it cannot be so."

Q This answer which I read to you, Hennecke, were given by you in Ebensee on the 11th day of December 1945; is that correct?

A No, on 28 or 29 August, 1945, at Ebensee. The statement

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was signed at Schwaibisoh Hall.

Q In your answers which I read to you just here in Court are true and correct, are they?

A Yes.

Q I ask you one more question, Hennecke. Did you ever receive any wounds while you participated in the second World War?

A Three times.

Q Will you tell us very shortly what kind of wounds you received and what results, if any, still remain?

A In the close combat in February 1942 in Russia I was hit over the head with a rifle butt. November 11, 1943, in Russia, I received a shrapnel in the back of the head and also in Russia, the date which I do not remember exactly, I received a shot which remained in my knee.

Q Are you still suffering from any results of your head wounds?

A In general, I maintained my good memory but some times it happens that I cannot remember incidents which occur, but these memories will come back, and come back exactly if they are aided; and it also happened that these memories disappear just as rapidly.

DEFENSE COUNSEL (Mr. Strong): Nothing further.

PROSECUTION (Mr. Elowitz): Nothing further.

PRESIDENT: Any questions by the court?

LAW MEMBER: By the court.

EXAMINATION BY THE COURT:

QUESTIONS BY THE COURT:

Q What order did you receive from Col. Peiper in the command post at LaGleize?

A On the morning of the 22nd I was in my G.P. and 1st Lt. Rumpf was called and I reported to Col. Peiper. I was told there that a man from the 9th Panzer Pioneer Company was to be shot; that Rumpf had been present and that I was to run after him and tell him to supply a shooting detail. He was to be shot on the same morning.

(Hennecke - by Court)

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Q Going back two days before that, about the 20th of December, 1944, in the same town, LaGleize, did you see any bodies of American soldiers?

A I saw seven bodies of dead Americans which were lying behind the first battalion C.P. in the evening of December 21.

Q Will you explain to the court the position of those bodies.

A I had no doubts that they had been shot.

Q Did you search those bodies?

A I went down there with the 1st Lt. Schmidt of Skorzeny's troops by order of my commanding officer, Major Poetschke, and 1st Lt. Schmidt had the order to search the bodies for papers and take those papers away in order to use them on himself. He, himself, did have an American uniform but certainly not sufficient papers. I took Schmidt down and showed him the bodies and then went back to my C.P.

Q How many sworn statements did you make, all together?

A Four.

Q How many of those statements do you now say are false and how many are true?

A The first testimony of one of the 11th of January, which was talked about today, is partially false; the second statement, 17th January, is also partly false. The third statement of March 13, that is the statement about LaGleize and Stavelot, is completely false. The fourth one is the one that I made at Ebensee, that is the one that is really the first that is correct. I wrote that according to my recollection then with the exception of one sentence against which I protested and which I stated that I had not answered in that manner, as I claimed today.

PRESIDENT: Are there other questions? Apparently none; the witness is excused.

DEFENSE COUNSEL (Mr. Strong): This witness will be recalled at a later date.

(Whereupon the witness was excused and resumed his seat).

(Hennecke - by Court)

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DEFENSE COUNSEL : The Defense calls as its next witness Karl Heinz Leiber. Mr. Strong will conduct the direct examination on behalf of the Defense and the Defense contemplates recalling this witness.

KARL HEINZ LEIBER, called as a witness for the Defense, was sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Strong):

Q Will you give us your first name, please?

A Karl Heinz Leiber.

Q How old are you?

A Twenty years.

Q Are you presently a prisoner of war?

A Yes.

Q Where are you presently being held in custody?

A In Enns, in Austria.

Q Have you been transferred for the purpose of this trial from Enns to Dachau?

A No. At first I was in a camp in Germany, first in Burgau.

Q To what military formation did you belong during the so-called Eifel Offensive in the month of December 1944, and January 1945?

A The Panzer Regiment, 1st company, company commander, 1st Lt. Kremser, 1st Platoon, platoon leader 2nd Lt.

Q When you talk about the 1st Division you mean the regiment commanded by Col. Peiper?

A Yes.

Q Were you ever, prior to the offensive, to-wit, in the month of December, 1944, at Friesheim?

A Yes.

Q How long did you approximately stay at Friesheim?

A About four weeks.

Q Did Hennecke at any time during your stay at Friesheim

(Leiber - direct)

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make any speech to the company in connection with the impending offensive?

A No.

Q Did he make any speech at all in Friesheim?

A No.

Q Was your company commander, Kremser, at that time present in Friesheim?

A Yes.

Q If Hennecke would have made a speech in Friesheim, would you remember it?

A Yes.

Q Why do you think you would remember it?

A Because in the first place, 2nd Lt. Hennecke was my platoon leader and that is one reason for remembering it more easily, and then orientation of a company is a matter for the company commander.

Q Where did you proceed from Friesheim?

A In the Blankenheim forest.

Q When, approximately, did you arrive there?

A December 15.

Q Do you remember the afternoon and night of December 15 1944?

A Yes.

Q Did Hennecke at that time make any speech to either his company or his platoon?

A He had one man from every tank crew of his platoon come to him and conduct an orientation.

Q What did he talk about?

A He asked whether every tank had enough gas, enough oil, enough ammunition, and enough supplies. Strike that. Enough food, not supplies.

Q Do you remember anything else he might have talked about?

A He also mentioned briefly the order in which the tanks would move into the column.

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Q Did he say anything about prisoners of war?

A No.

Q Did he say anything about enemy civilians?

A No.

Q Are you positive about it?

A Yes.

MR. STRONG: No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Prior to the Eifel Offensive did Kremser or Hennecke either one, give you any instructions on the treatment of prisoners of war?

A Lt. Hennecke? No.

Q How about Kremser?

A 1st Lt. Kremser made a speech to the company at fall of dark on the evening of the 15th of December.

Q Did he tell you how to treat prisoners of war in that speech?

A He pointed out to us that our task was to go ahead regardless of what happens to our left or right and for that reason we would have little time to transport prisoners of war to the rear and that that was to be done by the troops who were to follow us.

Q If you captured any prisoners, did he tell you what you were to do with them?

A No.

Q Had you ever been told how you were to treat prisoners of war prior to the Eifel Offensive?

A Yes.

Q Where was that?

A In Utsonendorf.

Q Just at one time?

A As recruits we were often told how prisoners of war

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were to be treated and how we ourselves were to behave as prisoners of war.

Q As a soldier; after you were assigned to duty how often were you told how to treat prisoners of war?

A How often I can't say exactly, but it happened somewhat frequently.

Q Did it happen once a month?

A Well, that happened in regular monthly intervals, I don't know any more.

PROSECUTION: No more questions.

DEFENSE COUNSEL (Mr. Strong): No redirect.

PRESIDENT: Any questions by the court? Apparently none the witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom).

DEFENSE COUNSEL: The Defense calls as its next witness Josef Zitzelsberger. Mr. Strong will conduct the examination on behalf of the Defense and the Defense contemplates recalling this witness.

JOSEF ZITZELSBERGER, called as a witness for the Defense, was sworn and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Strong):

Q What is your full name?

A Zitzelsberger, Josef.

Q How old are you?

A Twenty years.

Q Are you presently a prisoner of war?

A Yes.

Q Where are you presently being held in custody?

A In Dachau.

(Zitzelsberger - direct)

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Q To what military unit did you belong during the so-called Eifel Offensive, during the months of December 1944 and January 1945?

A 1st Panzer Regiment, 1st Company.

Q To which platoon did you belong?

A Second platoon.

Q Who was your platoon leader?

A Master Sergeant Strelhoff.

Q Do you know the accused Hennecke?

A Yes.

Q In what relation were you to him immediately prior to the Eifel Offensive?

A I was his orderly just before the Eifel Offensive.

Q Do you remember to have been in Friesheim?

A Yes.

Q When was it, approximately?

A End of November until the beginning of December.

Q Did Hennecke at that time make any speech either to the Company or to his platoon or to any other part of the Company?

A Yes. But no company orientation.

Q We are talking now about Friesheim, of course?

A Yes.

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Q What did Hennecke say?

A He was giving lectures to the platoon.

Q Did he in this lecture say anything about prisoners of war?

A No.

Q Are you sure about that?

A Yes.

Q What did he say?

A Well, lectures about weapons and other military things or the use of tanks.

Q Do you remember a speech made by your Company Commander Kremser in Friesheim?

A No.

Q Where did you go from Friesheim?

A From Friesheim we moved up to the Blankenheim Forest.

Q Do you remember the night from 15 to 16 December?

A Yes.

Q And the afternoon of 15 December 1944?

A Yes.

Q Did Hennecke, during the afternoon or the night I have just mentioned make any speech, either to the company or to the platoon or any other platoon?

A No.

Q You are positive about it?

A Yes.

MR. STRONG: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (MR. ELWITZ):

Q Zitzelsberger, you were a prisoner of war at

(Zitzelsberger-Cross)

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Schwaebisch Hall, IP #2, were you not?

A Yes.

Q While you were there you were interrogated about the murder of prisoners of war at Malmedy in December 1944, is that correct?

A Yes.

Q While you were there you also made a sworn statement, did you not?

A Yes.

Q I hand you a written instrument, Zitzelsberger, and ask you if you can recognize what it is?

A Yes.

Q What is it?

A My testimony.

Q Is your signature on it?

A Yes.

Q I am going to read you a small portion of your statement and ask you if you remember writing it: (Reading)

"On December 15, 1944, my company was assembled in a forest of Blankenheim to go ahead and enter the offensive. At 5 P.M. of this day Obersturmfuehrer Kremser called the whole company together for a speech. He said among other things the following: that we should remember the leaflets of the Americans in which was talked about the SS who treat civilians badly. From tomorrow on, he said, we will be able to take revenge; we will grant no quarter to the enemy and we will take no prisoners of war. Rations will be issued for today and he who hasn't anything to eat tomorrow is stupid.

(Zitzelsberger-Cross)

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Obersturmfuhrer Kremser delivered this speech to us after he returned from a commanders' conference at the battalion C.P. I was platoon messenger that day, and I remember when the message came down from the Battalion C.P. that all commanders had to report to the Battalion C.P. for a conference."

Zitzelsberger, was that statement true when you wrote it?

A Yes.

Q Is it true today?

A Yes.

MR. ELOWITZ: That is all.

PRESIDENT: Off the record.

(Discussion off the record.)

PRESIDENT: On the record.

MR. STRONG: If the Court please, I feel that the testimony regarding this statement should be stricken if Prosecution takes the position that we are not allowed to see the statement and examine the contents to see what it says.

PROSECUTION: If the Court please, the witness identified this statement as his own. I think that is sufficient. We are under no obligation to show the Defense the rest of the contents of that statement. However, if the Defense desires, we will read the rest of it now to the Court, if they want that.

MR. STRONG: No. In view of the fact that the part of the statement which has been read involves only Kremser, we waive the reading of the entire statement.

REDIRECT EXAMINATION

QUESTIONS BY MR. STRONG:

Q Zitzelsberger, you just testified to a speech made by Kremser in the Blankenheimer Forest.

A Yes.

Q I ask you again, did Hennecke at any time make a

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speech in the Blankenheimer Forest?

A I don't remember.

MR. ELOWITZ: One more question.

REGROSS EXAMINATION

QUESTIONS BY PROSECUTION (MR. ELOWITZ):

Q Zitzelsberger, was Hennecke present at the time Kremser made the speech to the whole company?

A I can't say for sure.

MR. ELOWITZ: That is all.

DEFENSE COUNSEL: Nothing further.

PRESIDENT: Any questions by the Court? Apparently not. The witness is excused.

DEFENSE COUNSEL: Defense calls as its next witness Werner Hacke. Mr. Strong, on behalf of the Defense, will conduct the direct examination. The Defense does not contemplate recalling this witness.

WERNER HACKE, a witness called by the Defense, after being first duly sworn, testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. STRONG):

Q Hacke, what is your full name?

A Werner Hacke.

Q How old are you?

A 22.

Q Are you presently a prisoner of war confined in Dachau?

(Zitzelsberger-Direct)

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A I don't understand.

Q Are you presently a prisoner of war confined in  
Dachau?

A In camp --camp 3.

Q During the Eifel Offensive, Hacke, in December  
1944 and January 1945, to what military unit did you belong?

A The 1st Company Panzer Regiment 1.

Q Which platoon?

A The 3rd platoon.

Q Who was your platoon leader?

A Master Sergeant Thomas.

Q Were you ever, prior to the Eifel Offensive, in  
Friesheim?

A Yes.

Q How long, approximately?

A From November 20th until the day the offensive  
started.

Q During this time you just mentioned, did Hennecke  
at any time make a speech to the company or parts of the  
company?

A No.

Q Would you remember it?

A Yes, I would remember that.

Q Why would you remember it?

A The company commander was present and if any  
speeches were to be made the company commander would do that.

MR. STRONG: You may cross examine.

DEFENSE COUNSEL: Your witness.

(Hacke-Direct)

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CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

- Q Were you in Blankenheim?  
A Yes.  
Q Did you attend the company meeting in Blankenheim?  
A Yes.  
Q What meeting are you referring to?  
A The one that happened the night before the attack.  
Q Did you fall out for that meeting on that night?  
A I participated in it.  
Q The entire meeting?

MR. STRONG: Objection. This witness has merely testified to his stay in Friesheim and the matters being referred to presently by the Prosecution have not been brought out on direct.

PRESIDENT: The objection is sustained.

PROSECUTION: No further questions.

DEFENSE COUNSEL: No redirect.

PRESIDENT: Any questions by the Court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. STRONG: May I move the Court that the questions and answers propounded by the Prosecution with reference to his stay in the Blankenheim Forest be stricken from the record?

LAW MEMBER: The Court will take notice of that.

DEFENSE COUNSEL: The Defense calls as its next witness Klaus Schneider. Mr. Strong, on behalf of the

(Hacke-Gross)

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Defense, will conduct the direct examination. The Defense does not contemplate recalling this witness.

If the Court please, the witness is not here. The next witness is an accused. Does the Court wish to start on the next accused in view of the hour?

PRESIDENT: Off the record.

(Discussion off the record.)

PRESIDENT: On the record. Court will adjourn until 0830 hours tomorrow morning.

(Whereupon court adjourned at 1645 hours until 0830 hours Wednesday morning, 26 June 1946.)

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CAMP DACHAU, GERMANY

26 JUNE 1946

MORNING SESSION

(Whereupon Court reconvened at 0830 hours.)

PRESIDENT: Take seats. The Court will come to order.

PROSECUTION: May it please the court, let the record show that all members of the Court, all members of the prosecution with the exception of Lt Col Crawford, who is absent on business of the prosecution, and Captain Byrne, who has been excused by verbal orders of the Commanding General, all members of the defense with the exception of Dr. Leiling and Dr. Leer, who are absent on business of the defense, all the defendants and the reporter are present.

DEFENSE COUNSEL: The defense calls as its next witness Klaus Schneider. Mr. Strong on behalf of the defense will conduct the direct examination. The defense does not contemplate recalling this witness.

KLAUS SCHNEIDER, a witness for the defense, was duly sworn and testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused.)

DIRECT EXAMINATION

QUESTIONS BY DEFENSE (Mr. Strong):

Q Will you give us your full name?

A Klaus Schneider.

Q Are you at present in custody in Dachau?

A Yes.

Q What military formation did you belong during the so-called Eifel Offensive in December 1944 and in January 1945?

A I was a member of the 1st Platoon of the 1st Company of the 1st Panzer Regiment of the LSSAH.

Q Who was your company commander?

(Schneider - Direct)

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A Obersturmfuehrer Kremser.

Q Who was your Platoon Leader?

A Untersturmfuehrer Hennecke.

Q Were you ever at Freinsheim?

A Yes.

Q Approximately when and for how long?

A We were at Freinsheim approximately from the middle of November until the middle of December.

Q Did at any time while you were in Freinsheim the accused Hennecke give a speech either to the company or to each platoon or to any part of the company?

A No.

Q Are you sure about that?

A Yes.

Q Would you remember if he had made a speech?

A Yes.

Q Why do you think you would remember?

A Hennecke was my Platoon Leader and if there had been a speech it would have been made by Obersturmfuehrer Kremser, the company commander.

Q Was Kremser in Freinsheim during this time?

A Yes.

Q How old are you?

A Twenty years.

Q Did you volunteer for the SS?

A No.

Q How did you happen to join it?

A I was inducted into the SS.

MR. STRONG: No further questions.

PROSECUTION: No cross examination on the part of the prosecution.

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(Schneider - Direct)

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PRESIDENT: Are there any questions by the court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the court room.)

DEFENSE COUNSEL: The defense calls as its next witness the accused Heinz Tomhardt. Mr. Strong on behalf of the defense will conduct the direct examination. The defense does not contemplate recalling this accused.

HEINZ TOMHARDT, one of the accused, called as a witness in his own behalf, took the stand and testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused.)

DIRECT EXAMINATION

QUESTIONS BY THE DEFENSE (Mr. Strong):

Q Will you give us your full name, please?

A Heinz Tomhardt.

Q When were you born?

A On 3 April 1922.

Q When did you enter the SS?

A In March 1940.

Q When did you join the Leibstandarte?

A Also in March 1940.

Q When did you become an officer?

A On the 20 April 1942.

Q When were you captured?

A On the 23 May 1945.

Q Will you describe to us the circumstances of your capture?

A I volunteered.

Q What position did you have during the so-called Eifel Offensive in December 1944 and in January 1945?

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(Tomhardt - Direct)

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A I was company commander.

Q Which company did you command?

A I was company commander in the 11th Company of the 2nd SS Panzer Grenadier Regiment of the Leibstandarte.

Q Who was your battalion commander?

A My battalion commander was the then Sturmbannfuhrer Diefenthal.

Q Do you remember whether or not you held any company conference immediately prior to the offensive?

A I held several, the last two in Labach and in the Blankenheim Forest.

Q Will you tell us very briefly the contents of your speech in Labach and approximately the time?

A The instructions in Labach were given by me approximately eight or ten days before the Eifel Offensive. It was a repetition of instructions that had been given monthly and were to be reported in writing to the battalion after completion. During these instructions I talked about treatment of prisoners of war. I talked about our own behavior in case we were captured. And I again reminded the men of the Red Cross instructions. During these instructions the new medics of the company received the order to paint their helmets with red crosses and to wear white signs on their chest with a red cross painted on it--

Q You are speaking right now about your speech in Labach?

A Yes.

Q What did you say in connection with the treatment of prisoners of war whom you might take?

A I based the whole thing upon the fact that every prisoner of war was to be treated in the manner in which one would want to be treated one's self. And I told them when taking prisoners that ammunition and knives with their straight blade were to be considered

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as weapons.

Q Did you tell your men in Labach not to take any prisoners?

MR. ELOWITZ: I object to that question.

LAW MEMBER: It is a leading question.

QUESTIONS BY DEFENSE (Mr. Strong):

Q What did you tell your men to do with prisoners?

PROSECUTION: If the court please, we object to that question as being leading.

MR. STRONG: I don't consider this question as being leading, may it please the court.

PRESIDENT: The objection is overruled.

A I said that prisoners of war were to be taken to the company CP in every case, and if it was not there they were to be taken to the company commander. And that this place was responsible for the further transportation of prisoners of war.

Q Did you say in your Labach speech anything about civilians?

A No.

Q Coming to your second speech, which, as you mentioned before you made in the Blankenheim Forest, will you tell us when this speech was made and to whom?

A I made this speech immediately after I left the assembly area in the Blankenheim Forest. That was on the 16th in the early morning hours at about one or two o'clock.

Q To whom did you make the speech?

A I was talking to the assembled company.

Q Will you tell us briefly the contents of your speech to the company in the Blankenheim Forest in the early morning hours of 16 December 1944?

A I pointed toward this coming offensive as the further fate of Germany. I appealed to the relentless personal commitment and appealed for every single man to be brave. I again spoke about the

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responsibility toward the home front which once again in spite of the bombing terror had delivered the weapons to us. I again pointed out several tactical points such as Infantry and artillery preparations for the offensive, spoke about a large commitment of the air corps and spoke about the mission of the armed group. And in this case I said as soon as the fighting line would be opened by the Infantry it would be our task, the task of the armored to break through and to use in full measure the confusion of the retreating enemy, for us it meant to drive ahead without regard to machine and man; we do not have any time and not sufficient Infantry to bother about prisoners of war. This will be left to the Infantry that follows.

I also called the attention of my men to the fact that we were only going to drive with two platoons of the company and would leave almost two platoons behind. I called attention to the great danger of armed civilians and I said that armed civilians would be shot without any regard. And I only mentioned the mission of the Skorzeny men as principal orders of my commanding officer. In order to point out to my men the mission of the Skorzeny people I spoke about deserters who would comrunning toward us with their helmets waiving over their heads and they were not to be shot at.

Q This company meeting preceded a meeting held by Hauptsturm-fuehrer Diefenthal?

A Yes. In the early evening hours toward twenty or twenty-one hours Hauptsturm-fuehrer Diefenthal spoke to the company commanders in the CP of the battalion.

Q I show you Prosecution's exhibit P-20, which is a statement signed by you and sworn to on the 6 day of March 1947?

A Yes.

Q In this statement you said as follows (reading):

"Hauptsturm-fuehrer Diefenthal declared that we had to fight recklessly and declared further that we were

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not allowed to take any prisoners in this offensive. I don't recall any more the exact wording of this order. I only know he issued this order not to take prisoners."

Is this statement correct in the form in which I just read it to you?

A No. I wrote it at that time, but Diefenthal did not use these words.

Q I read further to you from your statement dated 6 March 1946, the following paragraph:(reading)

"Between 2 and 3 o'clock in the morning I had the company awakened and assembled it around a fire. Then I made a speech to the assembled company in which I pointed out that the decisive battle of the war was about to begin. I requested my men to fight ruthlessly and told them also that it was not permitted to take prisoners. At the same time I informed them not to shoot at such prisoners who waived their steel helmets. I didn't tell them the reason for this last order. I don't know any more with what words I delivered the order that no prisoners of war were to be taken. I only know that I gave it."

I will read you one last paragraph (reading):

"On the other hand I don't recall any more to have issued an order to shoot all civilians. It is possible that I said to shoot suspicious civilians."

Now, referring to the two paragraphs which were just read to you, is this statement correct and true?

A No, they are not true.

Q Will you explain to the court in what regard all parts of your statement which were read to you in court this morning are incorrect, in what regard they are not correct?

A All these points which are stated in this statement about prisoners and civilians are not true and do not agree with the facts.

Q What is the truth, Tomhardt?

A That as well as my commanding officer said that prisoners were to be left to the Infantry that follows and that only armed civilians were to be shot.

Q Will you explain to the court why you signed this statement

(Tomhardt - Direct)

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which, as you just said, contains certain inaccuracies?

A Before my interrogation in Schwabisch Hall, which has been and was the first interrogation in my life, I had been in solitary for one-quarter of a year. In this quarter of a year I saw nothing else but the four walls of my cell and only left the cell once for ten minutes. I could not speak to anyone, not even a single word, and I had no mental work of any type. I was rather depressed by the fact that I was alone for so long and I had been waiting so long.

On 2 March I was called for interrogation. Before my interrogation, while I was standing in the hall with the hood over my head, I was beaten in the face and in my stomach.

Q Who hit you?

A I don't know. This beating at that time I considered as intimidation beating. When I later saw the red faces of my men who were confronted with me, I saw that that was the purpose of the interrogation which had not been used with me alone. These beatings in the face impressed me so much more because I saw a hood on the same morning and in the inside of which was full of blood.

Q Where did you see this hood?

A During the interrogation I was confronted with an officer comrade of mine and there I received a bloody hood which was put on my head. The interrogation was carried out by 1st Lt Pflr.

Q Was there anybody else present?

A Mr. Thon was there temporarily. The order that was supposed to have been given by my superior was made so tasteful to me from the very beginning that I would have certainly grasped that chance if I had had a bad conscience in connection with this offensive. During the interrogation four men of my company were confronted with me, who maintained that they had shot prisoners and who maintained that they had received the order from me to shoot prisoners, that is civ-

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ilians specially. I knew that there were about 35 men of my company in Zuffenhausen, which is a preparation camp for Schwabisch Hall.

I asked Lt Perl to confront me with other men, those men that did not shoot, that is did not need the straw of superior order. 1st Lt Perl told me, "These four men are quite sufficient to hang you. You will hang if you do not admit having gotten an order. We won't even consider the other men."

In the course of those interrogatories several written statements of some of my officer comrades were shown to me as well as a fellow officer was confronted with me, and all of them maintained that such an order existed in the armored group. In spite of this I could not remember the order. But since I was made uncertain after being confronted and by being shown these written statements, I asked for some time to think. And this time to think was granted to me in the so-called death cell. This word "death cell" I heard it the first time during a conversation between Lt Perl and Mr. Thon, which was carried out in English. In this so-called death cell in the six days in which I remained there I received no rest either during the day nor during the night.

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In this so-called death cell, during the six days that I remained there, I received no rest, either during the day or during the night. During four nights and several intervals -- some longer, some less -- the sentries would knock against the door and I slept only one night. During the day, I heard cries of agony from the neighboring cells. During two days, I heard in the cell next to me the sound of beatings and loud cries of agony, which seemed to be suppressed every time, as though something was thrown into the face of the one crying out. In the meantime, a voice cried out constantly: "...Do you want to lie to us? Do you want to tell us the truth: yes or no?...". At that time I thought about the fact that during the Eifel Offensive I had men in my Company that were only seventeen and eighteen years old and I thought that it would be easy to get these inexperienced men to make any kind of confession, but this type of treatment, with which they were to try me. I am just a front-line soldier and in all my life I have never had anything to do with law or methods of interrogation and in the spiritual depression in which I was at that time, and by the turns of speech of Lieutenant Perl, in the first interrogation, and of Mr. Thom, when he told a man who had asked about a court: "...You'll not be put before a court, we will take care of that the other way...", and on account of that I didn't think that I would get any justice in this matter and I didn't think that I would be put before a court of justice. Then, on the 7th of

(Tomhardt - Direct)

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March -- the date there is the 6th of March, but that isn't correct -- I was again confronted with some men of my Company, among them a man who was not present the first time I was confronted with them. I permitted, after I was being yelled at from two sides and after I was cursed out and spit at -- I permitted the statement to be dictated to me --

Q Who spit at you?

A Mr. Thom -- at that time I was in a spiritual and mental state such that nothing seemed to matter to me. Usually one is relieved after one makes a confession. However, I did not have that feeling and I am sure that the interrogating officers felt the same way, since I heard several times from conversations in front of my door, by the guards, that they had the express order to guard me particularly severely.

Q Now, Tomhardt, you have heard in this court the statements of various men that have accused you of giving orders?

A Yes.

Q And despite this fact, and despite the further fact that you accepted this statement at that time, you are now telling the court that what you have just told us is the truth, is that right?

PROSECUTION (Captain Schumacher): The prosecution objects to this, unless Mr. Strong wants to take the witness stand.

DEFENSE (Mr. Strong): I will re-phrase that question.

Q Do you wish to tell the court now that what you have just told us here is the truth?

PROSECUTION (Captain Schumacher): We object to that as putting the words and the answer into the witness' mouth.

(Tomhardt - Direct)

R-264-3

With a few more suggestions, we have no doubt that the witness will understand exactly what he is to say, so I will withdraw the objection and let the witness answer.

PRESIDENT: The objection is sustained and the defense counsel will be more careful in phrasing his questions.

DEFENSE (Mr. Strong): Yes, sir. I'm sorry.

Q Did you ever have any instructions in your Company about the treatment of prisoners of war?

A Yes, as I said before, we had these instructions at regular intervals, before the Eifel Offensive.

Q When, approximately, to the best of your recollection, did you give the last instructions, immediately prior to the Eifel Offensive?

A About eight to ten days before the start of this offensive, in Gladbach, near Duren.

Q Did you take part in the Normandy campaign?

A Yes.

Q Did you, at that time, have any experiences with prisoners of war --

PROSECUTION (Captain Schumacher): If the court please, if they are going to open up the Normandy campaign, I want it understood that the prosecution will have a much wider latitude in the cross-examination of this accused.

DEFENSE (Mr. Strong): The defense realizes this.

PROSECUTION (Captain Schumacher): All right.

Q -- will you tell us very briefly what experience you had?

A I was at that time in a position with my Company at Tilly, southeast of Caen, at about the end of July. The Canadians had attacked at this time and had broken through in

(Tomhardt - Direct)

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various spots of our main fighting line. I took 36 prisoners in this fighting and these prisoners were not harmed; they were then sent to the Battalion CP of Diefenthal. In contrast to this, two men of my Company, on the same morning, one of them a medic, were tied and gagged and then shot by the Canadians; and they also shot another man who had already surrendered.

Q Tomhardt, when were you wounded in the so-called Eiffel Offensive?

A On the 18th of December, while we were attacking Stavelot, I was wounded.

Q I hand you a document and request that it be marked Defense Exhibit 3, for identification.

(Whereupon the reporter marked the document "Defense Exhibit No. 3, for identification", as requested by the defense counsel.)

PROSECUTION (Colonel Ellis): Is this the stipulation on Tomhardt?

DEFENSE (Mr. Strong): Yes.

PROSECUTION (Colonel Ellis): Then there is no objection.

PRESIDENT: There being no objection the document offered into evidence by the defense is accepted into evidence by the court and will be marked "Defense Exhibit D-3" and attached to the record.

DEFENSE (Mr. Strong): I ask the court's permission to read this Exhibit?

PRESIDENT: Granted.

DEFENSE (Mr. Strong): The statement -- the stipulation reads as follows:

(Tomhardt - Direct)

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"It is hereby stipulated and agreed by and between the attorneys for the prosecution and the attorneys for the defense, that upon the trial of Obersturmfuehrer Heinz Tomhardt, Company Commander, 11th Company, 3rd SS Panzer Grenadier Battalion, LSSAH, accused, the following facts will not be disputed: (1) that in the vicinity of Stavelot on 18 December 1944 Lieutenant Tomhardt was wounded. (2) That on the 22nd of December, 1944, Lieutenant Tomhardt was sent to the rear and at Stadtkyll, Germany, was put on a hospital train and arrived on 23 December 1944, at the hospital at Attendorf, Westphalia, where he remained until 1 February, 1945."

Q At what hour on the 18th of December, 1944, were you wounded?

A It was between eight and nine o'clock, when the point of the attack rolled through Stavelot and --

Q What did you do, after you were wounded?

A Our physician had set up a First Aid Station at the bridge in Stavelot and I was taken to this First Aid station.

Q How long did you stay there?

A I stayed there until the evening of the 19th of December.

Q Where did you go on the evening of the 19th of December, 1944?

A I sneaked to our lines, with some of our men, and I was bandaged there at about six or seven o'clock that night, at the Regimental First Aid Station, by Dr. Sickel.

Q What happened then?

A Then I was taken to the main first aid station of the Division.

(Tomhardt - Direct)

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Q And what happened then?

A I stayed there until noon of the 20th and then I was to be taken to Stadtkyll, but, because of the road jams, this trip was interrupted at Ameln; I stayed there for two days, until the morning of the 22nd of December. On the 22nd of December, in the evening, I was loaded on to a hospital train in Stadtkyll and, in the course of the 23rd of December, I reached the Field Hospital, at Attendorn, in Westphalia.

Q What kind of wound did you sustain?

A I had a splinter in the knee.

Q Did you take part in any fighting, after you were wounded on the 18th of December, 1944, at approximately eight AM?

A Not in the Eifel Offensive.

Q After you were wounded, did you give any orders in the Eifel Offensive?

A No.

Q Did you know the accused Henkel?

A Yes.

Q Was he in your Company?

A Yes, he was the Platoon Leader -- I mean, a Platoon Leader in my Company.

Q Do you know his personal papers?

A Yes, I know them.

Q Do you know whether there were any entries referring to any punishments received by Henkel?

A Yes, I remember that Henkel was, in the year 1940, sentenced to two years in a concentration camp by the higher SS and police court.

Q On what count?

(Tomhardt - Direct)

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A Henkel had had a leading position in a kitchen of a Concentration Camp and he had given prisoners food without authorization.

DEFENSE (Mr. Strong): Your witness.

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION (Captain Schumacher):

Q You say that you gave two speeches to the men of your Company, prior to the offensive, Tomhardt, is that correct?

A Yes.

Q The first one was given on about what date?

A I don't remember the exact date, but it was about eight or ten days before the beginning of the Eifel Offensive.

Q And with respect to the handling of prisoners of war, you told the men of your Company on that date that prisoners of war would be taken to the CP, is that right?

A Yes.

Q And, if they couldn't find the CP, then to the Battalion Commander, is that right?

A No, I said to the Company Commander.

Q To you then?

A Yes.

Q And is that about all you told your men, with respect to the handling of prisoners, in your first speech?

A No, I said that I had said that, among other things.

Q Well, what other things?

A I mentioned what was to be taken away from them, when the prisoners were disarmed; and then, in connection with the possibility of being captured themselves, I told them that they only had to give their name, rank and serial number and

(Tomhardt - Cross)

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that the prisoners were not to be used in a combat area any more.

Q Not at all?

A No, I didn't mean that.

Q I know, but didn't you just say that you told your men in this first speech that no longer were prisoners of war permitted to be worked in a combat zone?

A No, I said that they were not all to be used in a combat area.

Q That had always been the rule, had it not, Tomhardt?

A Yes.

Q And that was also the rule in the Normandy campaign that you mentioned, is that right?

A Yes.

Q And were you in the LAH, at that time?

A Yes.

Q And the Hitler Jugend Division was how close to you in that campaign?

A I don't know, but as far as I remember, the Hitler Youth Division was used in another spot.

Q But in the same general sector?

A South of Caen, yes.

Q And you were familiar with the hundreds of Canadian prisoners of war that were killed by Von Meyer's Division at that time, and for which he was subsequently convicted, aren't you?

DEFENSE (Mr. Strong): We object to that question; the witness was asked about his personal experiences in the Normandy campaign and the prosecution is limited to that and may not examine the witness on anything else that any other units may have done.

(Tomhardt - Cross)

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PROSECUTION (Captain Schumacher): I think that the question is proper, to test the credibility of the witness and certainly to test his memory. It is a well-known historical fact that I think he would know about and I think that he can testify to that effect.

DEFENSE (Mr. Strong): It seems to me that the primary purpose of these questions is to bring some extraneous issues into the case.

PRESIDENT: The objection of the defense is overruled.

PROSECUTION (Captain Schumacher): All right, will you answer the question?

A -- I never saw the Division "Hitler Youth" at the invasion front.

Q Tomhardt, will you please answer the question? Do you know what the question was?

A Yes, I don't know about these things.

Q Now, when you gave your speech to the men of your Company there in the Blankenheim Woods, on the 15th of December, 1944, that was after you had attended the meeting with your Battalion Commander, Diefenthal, isn't that correct?

A Yes.

Q And you told your men, on this occasion, that they wouldn't have time to bother with prisoners of war, is that right?

A Yes.

Q And you meant by that, that the infantry troops were to take care of the prisoners of war, is that right?

A Yes.

Q What changed your plan, in the taking of prisoners, from the time that you made your speech in Gladbach, until this speech that you made there in the Blankenheim Woods?

(Tomhardt - Cross)

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A The fact that for the first time, after some years, we went over to the offensive again, and the entire training at Gladbach was directed toward a war that was concerned with the breakthrough of enemy tanks -- whereas the other was directed toward an offensive war.

Q In other words, you didn't know, until you got to the Blankenheim Woods, that your Battalion was going to be committed in this offensive, is that right?

A No, I had heard about it before, through my Commanding Officer.

Q Do you mean Diefenthal?

A Yes.

Q And what did you hear about it?

A It was a few days before we transferred to the assembly area, at a company commander's conference.

Q Now, I will ask you if you ever heard this speech, or if the contents of it were ever repeated to you, and I quote:

(Tomhardt - Cross)

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Q I'll ask you if you ever heard this speech or if the contents of it were ever repeated to you prior to the Eifel Offensive, I quote:

"We are involved in a better struggle -- this is a total war. We fight against a world of enemies, but we are united, and we will defeat them all. What I do, personally, does not matter, as long as it is to the advantage of the Fatherland.

"When you start this offensive, shoot everything that comes before your weapons. Shoot every American soldier, shoot every civilian. Remember that only the dead can harm us no longer. Take prisoner only deserters, for these can be interrogated profitably.

"Today all Germans know what would be Germany's fate should we lose this war. She would be enslaved, raped, without honor. This will never happen. Our enemies wish to destroy us, but we shall resist with iron determination, and we shall never surrender. The desecration of German soil by enemy troops cries for vengeance.

"You, soldiers, must fight to the last for your women and children. The time has come, and we shall soon advance again, and the world will tremble before our new weapons. Work, fight and conquer, that is the motto. Spring at the enemy's throat and sink your teeth into him!"

I ask you, Tomhardt, whether or not you heard that speech or the contents of it as made by the Gauleiter Holz of Franconia prior to this offensive?

A No.

Q Never heard anything about it?

A No.

Q Never saw it printed in the newspapers?

A No.

Q Never heard it over the radio?

A No, not either.

Q Didn't know that was the policy during the offensive?

DEFENSE COUNSEL (Mr. Strong): I object to that question. The witness has answered the same question now four times and the answer four times is "no". It's argumentative.

PRESIDENT: The objection is overruled.

Q You said you didn't know that that was the policy during the offensive?

A No, that is what I heard here for the first time.

Q As a matter of fact, the first time you ever heard the policy

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26-D-2

of your regiment or division was to shoot prisoners of war and civilians was when you heard it here in court; is that right?

A Yes.

Q Tomhardt, I show you Prosecution's Exhibit No. P-20, which is your statement, written in your own handwriting, is that correct?

A Yes.

Q And I direct your attention especially to Exhibit (Roman Numeral) I to that statement, attached to that statement. What is shown on that sketch?

A The lodge in the Blankenheim Forest.

Q Is it substantially correct?

A As far as I remember, yes.

Q Is the legend you wrote on the sketch correct?

A Yes.

Q I show you sketch (Roman Numeral) II and ask you to tell us what that is?

A That is the inside of the hunting lodge.

Q Is it shown correct according to your best recollection?

A Yes.

Q It shows the arrangement of the furniture and the pieces of furniture, etc. in the room, does it not?

A Yes.

Q Is the legend shown on that sketch correct?

A Yes.

Q Now I show you the sketch attached to Prosecution's Exhibit No. P-20 (Roman Numeral) II and ask you what that is?

A That is a sketch of the area in which I had my company.

Q That was following your conference with Company Commander Diefenthal, is that correct?

A Yes.

Q It shows the road, the location of your panzers, etc.?

A Yes.

Q Is it correct?

A As far as I remember, yes.

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(Tomhardt-Cross)

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Q Is the legend on that sketch substantially correct?

A Yes.

Q Did you draw all three of these sketches?

A Yes.

Q You had to use your own memory for the information shown on those sketches, is that correct?

A Yes.

Q Your interrogation then didn't so confuse you as to make you forget all those details, is that correct?

A No.

Q In other words, the only thing the interrogation confused you about was what you said to your men about shooting prisoners of war, is that correct?

A No, I didn't say that. Before the interrogation I told Lt. Perl, as well as Mr. Thon and once also in the presence of Mr. Elowitz and myself that I did not know of any such order and I was of this conviction when I wrote the statement.

Q Well, I'll repeat then that it was the interrogation then that put you in this state of spiritual depression, I think you called it, that made you write what you did about the orders you received and the orders you gave?

A Not only the interrogation but the atmosphere in the interrogation building and the thought at that time that I did not think I would get any justice in this matter anyway, since my own men in my own company got up and maintained having received an order of this kind from me.

Q You recall don't you Tomhardt, or you've certainly found out since, that you were the first officer in the Third Battalion who spilled the beans about these orders, is that true?

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A Yes, and I knew that at the time.

Q Now, I'm sure it was inadvertent but I want to read a few sentences from your statement that were omitted by counsel when he asked you about it. Now, this is what counsel read to you but I'll repeat it:

"Then I made a speech to the assembled company in which I pointed out that the decisive battle of the war was about to begin. I requested my men to fight ruthlessly and told them also that it was not permitted to take prisoners."

And this is the part that was overlooked:

"At the same time I informed them not to shoot at such prisoners who waved their steel helmets."

Do you remember that?

A Yes, I tried just now to explain that. I did not talk about prisoners of war in this condition but I talked about people who waved their steel helmet.

Q You were talking about men of Skorozeny's group because that was the signal they were to give to distinguish themselves from American prisoners, isn't that true?

A Yes.

Q And it was all right to shoot at any prisoners of war who came in so long as they weren't waving a steel helmet and that's the reason you explained it to your men in that fashion, isn't that true?

A No, that is not true.

Q Why did you tell your men not to shoot at prisoners who waved their steel helmets?

A I just said that. I didn't even talk about prisoners when I told them about the men waving their steel helmet. I was just talking about deserters.

Q In other words, it was all right to shoot at a deserter if he didn't wave his steel helmet, is that right?

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A No, that would have been in contrast to those things which I said about treatment of prisoners of war before and during the offensive.

Q Your men were certainly so well informed as to the instructions you gave them about prisoners of war that they could not have possibly forgotten them between the time you gave them and the time the offensive took place, is that correct?

A Yes.

Q And there would be no reason for you to have to refresh the recollection of any of the men in your company even today, isn't that true, as to what you said about prisoners of war?

A I don't think so.

Q Well, you certainly haven't tried to tell any of them what you told them prior to the offensive, have you?

A I talked with my men about the entire offensive as far as it was possible and also about the issuance of orders and I was told by all of my men before I ever even exchanged any words with them that this order was not given by me.

Q And you're talking about what you've done here in Dachau, you mean?

A Yes.

Q You haven't told any of your men what to testify to in this case, have you?

A No.

Q Haven't slipped any of them any notes, have you?

DEFENSE COUNSEL (Mr. Strong): There is no evidence that he did slip any notes. It is plainly elementary and argumentative.

PROSECUTION (Captain Shumacker): I'm not arguing with the witness, I'm just asking questions.

(Tomhardt-Cross)

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PRESIDENT: The objection is overruled.

PROSECUTION: You answered "No" to that question, I believe, is that correct? Please read the question.

(Whereupon the reporter did as requested.)

A Yes.

Q Telling them what to testify to -- I'm just asking you if you didn't send a note to one of your men telling him what to testify to in this case; can you answer that "yes" or "no"?

A I just wanted to refresh his memory.

Q And who did you send the note to?

A Heinrichs.

Q And who else?

A No one else.

Q Send one to a man named Fischer?

A Fischer can't even testify for me.

Q When did you find that out?

A That was told to me by the defense.

Q Doesn't he remember the story as you wanted him to remember it?

A I don't understand the question.

Q Who did you send this note to?

A I sent it to Heinrichs.

Q You wrote it, didn't you?

A Yes.

Q That's your handwriting, isn't it?

A Yes.

Q I'll ask you if in substance it states the following?

"Company Order on the early morning of 16 December 1944. (Reproduction according to the gist).

"A.) We are confronted with the decisive turning point of this war, etc. Full commitment of every man.

"B.) The Panzered group has the mission, with an extremely distant objective, to break through the enemy. That means to us, to drive on, without con-

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sideration for man and vehicle, and put to use to our advantage the confusion of the retreating enemy.

"As far as infantry is concerned, we are very weak. To confuse the enemy about our strength as soon as we approach villages, we shall concentrate with marching-fire upon such. Therefore we will not be able to give any consideration to civilians which will be found on the street during combat actions.

"We have no time nor men to occupy ourselves with prisoners -- they will be taken care of by the infantry which follows up.

"Armed civilians are our biggest enemies and will be bumped off without consideration.

"Upon deserters, who are waving their steel helmets over the head, will not be fired. The same goes for single driving enemy tanks (for *Kiik* crews) (Meant: Operation *Skorzenny*).

C.) Air force } Support  
Artillery }

Is that the note you sent to Heinrichs; that's what you wanted him to testify to, is that correct?

A Yes.

PRESIDENT: Court will recess until 10:35.

(Whereupon the court at 1035 hours took a recess.)

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(Whereupon court reconvened at 1030 hours.)

PRESIDENT: Take seats. Court will come to order.

PROSECUTION: If the Court please, let the record show that all the members of the Court, all the members of the Prosecution, with the exception of Lieutenant Colonel Crawford, who is absent on business of the Prosecution, and Captain Byrne, who has been excused by verbal orders of the Commanding General, all the members of the Defense, with the exception of Lieutenant Colonel Dwinell, Dr. Leer and Dr. Leiling, who are absent on business of the Defense, all the Defendants, and the reporter are present.

DEFENSE COUNSEL: The Defense recalls the accused Tomhardt.

HEINZ TOMHARDT, an accused, resumed the stand and testified further through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused.)

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q Tomhardt, referring again to this note that you sent to Heinrichs, and particularly that part of it where you reminded Heinrichs that a portion of your speech provided that deserters who waved their steel helmets were not to be fired upon, were enemy soldiers who were deserting and surrendering to the German forces to be treated any differently than any other enemy soldiers who surrendered?

A No. At that time I didn't expect any deserters at all but I had to make the Action Skorzeny understand that

(Tomhardt-Cross)

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to mean in the same manner.

Q And you told your men that they would not shoot on any deserters who waved their steel helmets over their head?

A Yes, I might have used any other term just as well.

Q I am talking about the terms that you used yourself in this note that you wrote to Heinrichs. Those are the terms that you suggested to Heinrichs that he testify about, is that not correct?

A No, not testify, -- he had already testified against me. I only sent him this note to make him know what happened, -- so that he would remember, -- since I had heard that the Prosecution witnesses in this case received photostatic copies of our statements from the Prosecution and for that reason I thought I was justified in sending him a statement one time according to how it really had happened.

Q When did you write this note to Heinrichs?

A The week before last or last week, I don't know for sure.

Q Do you not know as a matter of fact that you wrote this note several days before Prosecution witnesses were furnished with a photostatic copy of the statement you had made?

A No, I don't know when the Prosecution witnesses received photostatic copies.

Q Anyway, these deserters that you spoke about in the talk to your company were men wearing the American uniform, is that correct?

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A Yes.

Q And those of them who waved the steel helmets as they came toward your line surrendering were not to be shot, is that correct?

A Yes.

Q How long had you been in command of the 11th Panzer Grenadier Company at the time of this offensive?

A Approximately since the beginning of the invasion.

Q You mean then since about June '44, is that correct?

A Yes.

Q Were your men well disciplined and well trained?

A I pride myself in saying yes.

Q Are you confident that your men were so well trained and so well disciplined that they would follow the orders you gave even if you were wounded?

A Yes.

CAPTAIN SHUMACKER: If the Court please, I request the Court ask the following men to stand and remain standing while I ask the accused a question: The accused Fritz Rau, number 46, the accused Heinz Godicke, number 17, the accused Herbert Stock, number 64, the accused Friedrichs, number 15, the accused Richter, number 50, the accused Hendel, number 22, the accused Gebauer, number 16, the accused Willi Braun, number 4, the accused Siegmund, number 58, the accused Theo Rauh, number 47.

(Whereupon the accused arose.)

QUESTIONS BY CAPTAIN SHUMACKER:

Q I ask you if those men were under your command

(Tomhardt-Cross)

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during the Eifel Offensive?

A Until the 18th, yes.

Q These are some of the men that you say were so well trained that they would follow your orders even after you were wounded, is that correct?

A I think so.

CAPTAIN SHULACKER: Sit down.

PRESIDENT: Sit down.

(Whereupon the accused resumed their seats.)

QUESTIONS BY PROSECUTION (CAPTAIN SHULACKER):

Q You heard the confessions of the accused who just stood up, members of your company, when they were read in this case, is that correct?

A Yes.

Q I ask you whether or not in a single statement made by those accused introduced in court you heard anything about prisoners of war being taken care of by the Infantry following behind your column?

A No.

CAPTAIN SHULACKER: No further cross.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. STRONG):

Q When you made your speech in Gladbach, did you know about the impending offensive at that time?

A No. I only knew we were to expect a counter attack in the area of Achen any day.

Q When you gave this piece of paper to Heinrichs -- I think is his name -- was that before Heinrichs testified in court or after?

(Tomhardt-Redirect)

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A That was several weeks after Heinrichs testified.

Q And several weeks after you heard his testimony here in court?

A Yes.

MR. STRONG: That is all.

RECESS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q Do you deny, Tomhardt, that you and other accused have talked to the witnesses that the Prosecution used in an attempt to explain what was meant by not taking prisoners of war when called by you and other accused as witnesses on your own behalf?

A Of the 30 men who were together with me in Hall, Heinrichs is the only Prosecution witness and I never talked to Heinrichs.

CAPTAIN SHUMACKER: No further recess.

DEFENSE COUNSEL: Nothing further.

PRESIDENT: Any questions by the Court? Apparently none, the witness is excused.

MR. STRONG: One question, please.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. STRONG):

Q Tomhardt, in the preparation of your case by the Defense, were you ever confronted with Heinrichs?

A No.

Q Was Heinrichs ever mentioned as a possible witness for you?

A No, I knew that Heinrichs would not testify for me.

MR. STRONG: That is all.

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PRESIDENT: There being no other questions, the witness is excused.

(Whereupon the witness was excused and resumed his seat in the prisoners' dock.)

DEFENSE COUNSEL: The Defense calls as its next witness Benno Agather. Mr. Strong, on behalf of the Defense, will conduct the direct examination. The Defense does not contemplate recalling this witness.

BENNO AGATHER, a witness called by the Defense, was first duly sworn and testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the accused and the German counsel as follows):

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. STRONG):

Q Agather, will you give us your full name, please?

A Agather, Benno.

Q How old are you?

A 21 years.

Q Are you presently a prisoner of war held in custody here in Dachau?

A Yes.

Q To what military unit did you belong during the so-called Eifel Offensive in the months of December 1944 and January 1945?

A I belonged to the 11th Company of the 3rd Battalion.

Q Who was your Battalion Commander?

A Captain Diefenthal.

Q Who was your Company Commander?

(Agather-Direct)

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A 1st Lieutenant Tomhardt.

Q Who was your platoon leader?

A 2nd Lieutenant Hahn.

Q Is 2nd Lieutenant Hahn still alive?

A No.

Q What happened to him?

A He was killed in action in Stavelot.

Q Agather, do you remember a company meeting shortly before the Eifel Offensive, at which time Tomhardt made a speech to his company?

A Yes.

Q Do you remember when and where that was?

A That was in the forest near Blankenheim in the night from the 15th to the 16th.

Q How long did Tomhardt's speech approximately last?

A About 15 minutes.

Q Will you tell us as well as you remember the gist of his speech?

A Yes.

Q Will you please do so?

A 1st Lieutenant Tomhardt said that this was a decisive action and that everything was at stake and the Infantry would attack ahead of us, that we would receive air support as never before and also artillery support as never before. He then said that from a standpoint of combat strength we were weak and that we would therefore have no time to bother with prisoners of war.

Q What should happen with prisoners of war?

(Agather-Direct)

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A The prisoners of war were to be left to the Infantry following behind.

Q I read to you from Prosecution's Exhibit P-20, which is a statement signed by Tomhardt on the 6th of March 1946, in which Tomhardt says the following: (Reading)

"I made a speech to the assembled company, in which I pointed out that the decisive battle of the war was about to begin. I requested my men to fight ruthlessly and told them that it was not permitted to take prisoners."

Is that last sentence which was read to you true? Did Tomhardt say this?

A Yes.

Q I want to repeat my question. Did Tomhardt say in his statement that you would have to fight ruthlessly and did he tell you that you would not be permitted to take prisoners?

A No, he didn't say that.

Q If he would have told you that you would not be permitted to take prisoners, would you remember this?

A Yes.

Q Why do you think you would remember that?

A Because no such order was ever given.

Q Did Tomhardt say anything in his speech about civilians?

A Yes.

Q What did he say?

A That armed civilians who would offer any resistance would be shot.

(Agather-Direct)

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Tk #266-SR-6/26-9

Q Do you remember a company meeting in Gladbach?

A Yes.

Q Did Tomhardt at any time make a speech to the company?

A Yes.

Q When was that approximately?

A It was about two weeks before the action started.

Q What did he at that time say about prisoners of war?

A That when we took prisoners of war their weapons would be taken away from them and that they would then be moved back to the CP.

Q Were you in Schwabisch Hall?

PROSECUTION: We object to that question as being irrelevant and immaterial. It has no bearing on the issues in this case.

PRESIDENT: Objection sustained.

MR. STRONG: : No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q In this speech at Gladbach, what were you instructed to do with prisoners of war if you could not find the Company CP?

A Prisoners of war would be collected and taken back to a higher echelon CP.

Q In other words, your instructions were if you could not find the Company CP you were to immediately evacuate them to a CP of a higher echelon, is that right?

A Yes, to another one.

(Agather-Cross)

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Tk #266-SR-6/26-10

Q In the speech that Tomhardt made to the men of his company, including you, in the Blankenheim Woods, what did he tell you about enemy deserters who were surrendering to you?

A Who were surrendering? I don't remember anything about that.

Q Did he tell you that if you saw deserters waving their steel helmets you were not to shoot them?

A Yes.

Q They would not be waving their steel helmets and coming towards you if they were surrendering, would they?

MR. STRONG: Objection. The question calls for an opinion.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION (CAPTAIN SHUMACKER):

Q How long have you been in the Army?

A Since '43.

Q What is a deserter?

A A deserter is a man who drops his arms and surrenders to us.

Q And you were not to shoot deserters who waved their steel helmets, is that correct?

A Yes, that is right.

CAPTAIN SHUMACKER: No further cross.

MR. STRONG: No further redirect.

PRESIDENT: Any questions by the Court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

(Agather-Cross)

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Tk #266- SR-6/26-11

DEFENSE COUNSEL: Defense calls as its next witness Siegfried Albrecht. Mr. Strong, on behalf of the Defense, will conduct the direct examination. The Defense does not contemplate recalling this witness.

MR. STRONG: May it please the Court, the interpreter just called my attention to a misinterpretation which he himself discovered. I asked the witness whether he would remember if such an order was given and his answer was he would remember it because there was never such an order given.

INTERPRETER ROSENSTOCK: "That no such order was ever heard of." I said, "No such order was given."

CAPTAIN SHUMACKER: That correction is satisfactory.

PRESIDENT: The record will be corrected.

SIEGFRIED ALBRECHT, a witness called by the Defense, after being first duly sworn, testified through an interpreter as follows:

(Whereupon the questions, answers and other proceedings were interpreted to the German counsel and the accused).

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (MR. STRONG):

Q Albrecht, will you give us your full name?

A Siegfried Albrecht.

Q How old are you?

A 19 years.

Q Are you presently a prisoner of war?

A Yes.

Q Where are you presently being held?

A In Dachau.

(Albrecht-Direct)

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Q Will you tell us to what military unit you belonged during the Sifel Offensive during the month of December, and January, 1945?

A The 11th Company, 2nd Regiment.

Q Who was your company commander?

A 1st Lt. Tomhardt.

Were you ever at Gladbach?

A Yes.

Q When, approximately?

A From the middle of November on.

Q Until when?

A December 10, approximately. I don't know for sure.

Q Do you remember that Tomhardt in Gladbach made a speech to his company?

A I remember Tomhardt conducting a company orientation.

Q What did he say at that time?

A In this orientation Tomhardt said the battle to be fought would be decisive, we must win the war from there, and that we would fight an enemy who was an equal; that we had to treat prisoners of war accordingly; that all prisoners of war were to be disarmed at once and to be taken back to the company C. P. to be moved to division from there.

Q Did Tomhardt in Gladbach say anything about civilians?

A No.

Q Now, from Gladbach, where did you go to?

A We moved into the Blankenheim forest.

Q Do you remember a speech made by Tomhardt in the Blankenheim forest?

A Yes.

Q Do you remember when that was?

(Albrecht - direct)

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A That was on the night of December 15.

Q Do you remember the gist of what he said?

A Yes.

Q Will you please give those?

A Tomhardt said in his speech that the fate of the German people would depend on the success of this offensive.

Q What else do you remember that he said?

A We will be supported by a strong aircorps and artillery units. We are weak in numbers and must proceed rapidly. We can therefore not take care of prisoners but must leave them to the infantry following us. Armed civilians will be shot.

Q How long did Tomhardt's speech last, approximately?

A Ten or fifteen minutes.

Q Were you with Tomhardt at the cross roads?

A Yes, we passed by the cross roads.

Q Do you remember when that was?

A It was on the 17th, towards noon.

Q Can you give us the approximate hour?

A Between one and two o'clock.

Q Do you remember to have seen Oberscharfuehrer Rayer there?

A Yes, I saw him there.

Q Can you describe more exactly where you saw him?

A It was between the cross roads in Engelsdorf, about one kilometer from there.

Q Do you remember the conversation between Rayer and Tomhardt?

A Yes.

Q Will you please tell us what this conversation consisted of?

A Rayer arrived in his SPW and reported to Tomhardt that he had received orders from Major Poetschke to shoot prisoners at the cross roads. Thereupon Rayer had answered Poetschke he couldn't (Albrecht - direct)

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do that, not having any order to do that from his C.O.

Q Do you know where Rayer is now?

A No, I haven't seen him.

Q Albrecht, were you drafted into the SS or did you volunteer for it?

A I was drafted.

DEFENSE COUNSEL (Mr. Strong): Your witness.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Just how drunk were you on the night of the 15th of December 1944?

DEFENSE COUNSEL (Mr. Strong): Objection.

PROSECUTION (Capt. Shumacker): I know no legal reason for the objection.

DEFENSE COUNSEL (Mr. Strong): As I understood the question, nothing had been brought out in direct that this witness was ever drunk.

PRESIDENT: Translate that.

PROSECUTION (Capt. Shumacker): Certainly I can ask the witness if he was drunk or sober. I am laying a predicate.

LAW MEMBER: Why don't you put your question that way?

PROSECUTION (CAPT. Shumacker): If the court please, on cross examination I don't have to ask questions in the manner that it is asked on direct examination. I think I have the right to suggest the answer.

DEFENSE COUNSEL (Mr. Strong): The accused certainly has a right to ask leading questions on cross examination but cannot put in the witness' mouth anything in connection with things which have not been brought out on direct. Not on that particular issue. No proper foundation has been laid.

LAW MEMBER: Objection is sustained.

(Albrecht - direct)

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QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Were you drunk on the night of December 15, 1944?

A No.

DEFENSE COUNSEL (Mr. Strong): I object.

Q You had not had anything at all to drink?

A Yes, it was liquor.

Q Yes. And when you first got down here to Dachau you were in the same cage with one of your comrades by the name of Heinrichs is that right?

A In the same barracks. Not in the same barracks, in the barracks next door.

Q Anyhow, you talked to him pretty soon after you got down here from Schwaibisen Hall, did you not?

A Yes.

Q And you told Heinrichs on that occasion that you were so drunk on the night of the 15th of December, 1944, you didn't know whether Tomhardt even made a speech; isn't that true?

A No.

Q You did not make that statement to Heinrichs?

A No.

Q How much schnaps had you had to drink before the speech was made?

DEFENSE COUNSEL (Mr. Strong): If it please the Court, this witness has answered the same question twice, and what is being done now is merely trying to intimidate him.

PRESIDENT: Objection over ruled.

Q How much Schnaps had you had before the speech was made?

A I don't know. Very little. I don't drink any liquor.

LAW MEMBER: Will you instruct the witness to speak a little louder?

Q What was the answer? Did you get the answer, Miss Reporter?

(Albrecht - cross)

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(Whereupon the answer was read by the reporter.)

Q You don't know?

A Yes.

Q Well, about how many drinks did you have?

A I don't know.

Q Four or five?

A I drank very little. One shot, at the most. I don't know.

Q One shot. And you say you drink very little; is that right?

A Yes.

Q One shot have any effect on you at all?

A No.

Q How many shots does it take to have any effect on you?

A I was never drunk off liquor and I therefore don't know.

Q You had had exactly one drink, then, before the speech was made, is that right?

A I don't know whether it was before or after the speech.

Q Well, anyway, you had exactly one drink; is that right?

A Yes.

Q I thought you testified just a minute ago that you didn't know how many drink you had had?

A What?

Q Didn't you testify just a moment ago that you couldn't remember how many drinks you had had?

A You just asked me now that I had one drink.

Q But prior to that, did you not state that you couldn't remember how much you had drunk?

A Yes, I said that.

Q But now you remember?

A And then you asked me approximately how much.

Q And now you are sure it was only one drink?

A Certainly not more.

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Q Did you drink out of a bottle or out of a glass or can-  
teen?

A Of the bottle.

Q Did you take the first drink?

A I don't know that.

Q Who else was drinking with you?

A The men who were together with us from the half-track.

Q Who was it?

A The commander, our driver, and the messengers.

Q You know their names, don't you?

A Yes.

Q What are their names?

A 1st Lt. Tomhardt, Rottenfuehrer Dutsenke, Pfc. Frisch,  
Pfc. Kirschenbaum, Rottenfuehrer Guinten.

Q Anybody else?

A Yes, but I forget the names.

Q Whose bottle was it?

A SPW's.

Q Did all the SPWs in your company have a bottle of Schnaps  
in it?

A I don't know that.

Q Did you see other men of your company on the night this  
speech was made, drinking schnaps?

A No.

Q The only drinking you recall is that that you participated  
in yourself, is that right?

A Yes.

Q Now, when you told Heinrichs about this drinking, that was  
shortly after you got here to Dachau, was it not?

DEFENSE COUNSEL (Mr. Strong): I object to that question.  
The witness has already testified that he did not tell Heinrichs

(Albrecht - cross)

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about the drinking. The prosecution puts words in the mouth of the witness which the witness has never used.

PRESIDENT: The objection is sustained.

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q What did you tell H<sub>0</sub>inrichs when you got down here about this speech?

A I didn't have any further conversation with H<sub>0</sub>inrichs.

Q What conversation did you have with him?

A I only told him that I never remembered that Tomhardt had said in his speech that prisoners of war were to be shot.

Q Do you remember it now? Do you remember now that he said it?

A I don't understand.

Q What did Tomhardt tell you about deserters who <sup>their</sup> ~~were~~/steel helmets?

A Deserters?

Q Yes, deserters in American uniforms. Did he tell you you shouldn't shoot them?

A No prisoners were to be shot. No deserters either.

Q He told you specifically that no deserters were to be shot, is that correct?

A I don't know.

Q Now I want to ask you this once more: Do you deny having told H<sub>0</sub>inrichs after you arrived at Dachau that you could not remember whether Tomhardt made a speech, because you were drunk on the night of the 15-16 December, 1944?

DEFENSE COUNSEL (Mr. Strong): I object to that question, because it is clearly repetitious, having been asked of the witness and having been answered by the witness. He is asking it twice.

PROSECUTION (Capt. Shumacker): I just want to be sure that I understood the witness' answer, because I intend to call this witness

(Albrecht - cross)

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Heinrichs in rebuttal and I am laying a predicate for it.

PRESIDENT: Objection over ruled.

QUESTIONS BY PROSECUTION (Capt. Shumacker): Will you please answer the question?

(Whereupon the question was read by the reporter, as follows: Now I want to ask you this once more: Do you deny having told Heinrichs after you arrived at Dachau that you could not remember whether Tomhardt made a speech, because you were drunk on the night of the 15-16 December, 1944?)

A I told Heinrichs that I did not remember Tomhardt making a speech in which he said that prisoners<sup>of</sup> war were to be shot.

PROSECUTION (Capt. Shumacker): Very well. No further cross.

DEFENSE COUNSEL (Mr. Strong): No redirect examination.

PRESIDENT: Any questions by the Court? Apparently none. The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

PROSECUTION (Capt. Shumacker): If the Court please, I know it is a little unusual, but I forgot one important question that I wanted to ask the previous witness, Agather. If he is still available in the courthouse I would like to recall him for one further question on cross examination. That was the witness who testified immediately before the last one.

DEFENSE COUNSEL: The Defense does not contemplate recalling this witness and if the Prosecution wishes to adopt him as their witness, why that is their prerogative.

PROSECUTION (Capt. Shumacker): It is a matter, of course, entirely within the discretion of the court as to whether or not a witness may be recalled for further cross examination.

DEFENSE COUNSEL: I am sure the rules are clear that the witness and the evidence is clear that the court excused the witness.

PROSECUTION (Capt. Shumacker): If the court please, I (Albrecht - cross)

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would like to make this statement, that the matter that I want to question this witness about is cross examination and is not properly rebuttal, that the Prosecution has no opportunity to call the witness on its own behalf unless the evidence it intends to introduce through that witness is rebuttal testimony. That is the reason I request permission of the Court to ask another question or so on cross examination.

PRESIDENT: The witness may be recalled. Send for him.

PROSECUTION (Capt. Shumacker): Bring in the witness, Agather.

BENNO AGATHER, a witness for the Defense, was recalled and, having been previously sworn, testified further through an interpreter as follows:

PROSECUTION: The witness is reminded that he is still under oath.

LAW MEMBER: Will you also inform the witness that the question to be propounded is just further cross examination only.

PROSECUTION (Capt. Shumacker): The questions about to be propounded to this witness are further questions in cross examination of this witness.

#### CROSS EXAMINATION

QUESTIONS BY PROSECUTION (Capt. Shumacker):

Q Agather, you testified on direct examination that you heard Tomhardt's speech in the Blankenheim woods immediately before the Eifel Offensive began; is that correct?

A Yes.

Q And you stated the substance of that speech?

A Yes.

Q I hand you a piece of paper and ask you if you can identify it? Is that a statement you wrote?

A No.

Q Whose signature appears on the back of it?

(Agather - cross)

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A The signature is mine.

Q Whose initials appear throughout that statement?

A That is my signature here.

Q And whose initials are those?

A Above these corrections, above the individual lines my initials appear.

Q Did you write those initials?

A Yes.

Q Look on the front part of the paper and see if you see any more corrections with your initials?

A Yes.

Q When is that statement dated?

A That was written about four weeks ago.

Q When is it dated? Does the date appear on it?

A Fourth of June, 1946.

Q Fourth of June 1946, is that correct?

A Yes.

Q Is that your handwriting?

A Down here, yes.

Q Why were those corrections made?

A These corrections are true.

Q In other words you made the corrections so that the statement would read correctly, is that right? Is that right?

A I made these corrections. What was not right I crossed out.

Q And everything that is not crossed out in that statement is correct, isn't that true?

A (No answer).

Q Would you read that statement in German to the court? Read it right out loud to the court.

(Whereupon the witness read the statement).

Q Will the court interpreter please translate the statement?  
(Agather - cross)

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~~Recross~~

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Q You made this statement on the 4th of June, didn't you, Agather?

A May I see it again?

Q Look at it. I ask you again if it was made on the 4th of June?

A 4th of June, 1946.

Q What caused you to change your mind between the 4th of June and the 26th of June, 1944, as to whether or not you attended this speech that Tomhardt made?

A This statement of 6 June 1946 I made while still under the impression of Schwaebisch Hall.

Q You mean knowing that you told the truth at Schwaebisch Hall?

A I did speak the truth in Schwaebisch Hall.

Q And this is a carry-over of what you verbally related at Schwaebisch Hall, is that right -- this statement here?

A No.

Q Is this statement true?

A No.

Q Why did you make it?

A Because I was under the impression of Schwaebisch Hall -- because I was afraid.

Q You got here on the 19th day of April 1946, didn't you?

A I don't remember the exact date.

Q Well, on or about the 19th of April, 1946, you came here from Schwaebisch Hall, didn't you?

A Yes.

Q And so you had been here approximately six weeks before you signed this statement, is that true?

A (No answer)

Q And during that period of time you had been in a barracks here with the rest of your comrades, had you not?

LAW MEMBER: I don't think the witness answered the last

question.

PROSECUTION (Captain Shumacker): The witness didn't answer, if it please the court. I figured it was a matter of mathematical calculations anyway that didn't require an answer.

(Whereupon the last question was translated by the interpreter.)

A Yes.

Q And despite the fact that you were here in Dachau with your comrades on or about April 20, 1946 to the 4th of June, 1946, you signed this statement on the 4th of June, 1946?

A Yes.

PROSECUTION (Captain Shumacker): Nothing further.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. Strong):

Q Agather, you stated that you were afraid when you signed the statement here in Dachau on June 4, 1946; is this correct?

A Yes.

Q And you stated further that you were still under the impression of Schwaebisch Hall, is this correct?

A Yes.

Q Will you please tell us about your experiences in Schwaebisch Hall?

PROSECUTION (Capt. Shumacker): Objection, if it please the court. The treatment of this witness has not been gone into at all on recross-examination.

DEFENSE COUNSEL (Mr. Strong): If it pleases the court, the prosecution should be aware of the facts itself. The prosecution opens the door to questions about Schwaebisch Hall by confronting this witness with this statement and asking him why the statement is now suddenly not true. If the witness tells the court that the statement is not true and says he is afraid, he should be permitted to give the reasons for his fear.

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PRESIDENT: The objection is overruled.

Q Now I ask you, will you tell us about your experiences in Schwaebisch Hall in detail, please?

PROSECUTION (Capt. Shumacker): If it please the court, I think his examination should be restricted to the circumstances surrounding the execution of this statement or, at least, the writing of this statement -- the information contained in it -- that's the only thing that I asked him about on recross-examination.

DEFENSE COUNSEL (Mr. Strong): May I point out that quite apart from the fact that the court has already ruled on more or less the same objection, we try to bring out the reasons for fear and I'm afraid the witness could not give the reasons of his fear without talking about Schwaebisch Hall.

PROSECUTION (Capt. Shumacker): If the court please, my objection was no further objection to the ruling already made by the court, it was directed to the question as propounded this witness.

PROSECUTION (Capt. Shumacker): The question was: "Relate all your experiences at Schwaebisch Hall in detail."

DEFENSE COUNSEL (Mr. Strong): I shall rephrase my question and ask the witness:

Q Will you please give us your experience in Schwaebisch Hall in connection with any statements you made there?

PROSECUTION (Capt. Shumacker): If the court please, I'm objecting to that. The only statement in question is this one right here that the witness has been cross-examined about.

PRESIDENT: If the defense will ask his question and tie it up with this particular instance the question is permitted.

Q Will you tell us, Agather, what caused you fear in connection with Schwaebisch Hall?

PROSECUTION: (Capt. Shumacker): If the court please,

(Agather-Redirect)

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I object to that question because it's not directed to this particular instrument that this witness has been cross-examined about.

PRESIDENT: I am going to caution both the prosecution and the defense to give the interpreter a chance to interpret your respective remarks. Now, please bear that in mind hereafter. Now, do you have anything further?

DEFENSE COUNSEL (Mr. Strong): No.

PRESIDENT: The defense will proceed. Rephrase your question.

Q Will you please tell the court what happened in Schwaebisch Hall to make you feel persecution?

PROSECUTION: (Capt. Shumacker) If the court please, I object to that question on the same grounds previously stated.

PRESIDENT: The objection is sustained.

Q What were you afraid of?

PROSECUTION (Capt. Shumacker): If the court please, I object to that question: "What were you afraid of?" Because it's a general question.

PRESIDENT: The objection is sustained.

Q What made you afraid of prosecution when you took the stand here?

PROSECUTION (Capt. Shumacker): If the court please, I object to that question for the same reason.

PRESIDENT: The objection is sustained. The court will caution the defense counsel that you have asked the same question about ten times, all of which are substantially the same questions, and you must be more careful.

DEFENSE COUNSEL (Mr. Strong): I'll rephrase the question.

Q What treatment did you receive in Schwaebisch Hall that influenced the signing of your statement here and made you feel prosecution?

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PROSECUTION (Capt. Shumacker): If the court please, I object to that because there's been no testimony that this witness feared persecution, or prosecution.

DEFENSE COUNSEL (Mr. Strong): The witness said in court that he was afraid and under the impression of Schwaebisch Hall when he signed the statement in Dachau.

LAW MEMBER: Why not ask the witness what he meant when he said he was under the impression of Schwaebisch Hall when he signed the statement? Put it just that way.

Q What did you mean when you told the court that you were afraid when you signed the statement in Dachau?

PROSECUTION (Capt. Shumacker): If the court please, object to that question because it's not borne out by the evidence that the witness gave on cross-examination.

PRESIDENT: The objection is sustained.

DEFENSE COUNSEL: The defense desires Lt. Wahler to restate the question.

QUESTIONS BY DEFENSE COUNSEL (Lt. Wahler):

Q Agather, will you restate to the court what you meant by the treatment you had received at Schwaebisch Hall as affecting the truthfulness of your statement that you were just interrogated on?

A I was mistreated in Schwaebisch Hall.

Q Will you explain what mistreatment you received?

A I was beaten in the face.

Q When did this happen?

A When I was interrogated.

Q When were you interrogated in Schwaebisch Hall?

A I arrived in Schwaebisch Hall on March 5.

DEFENSE COUNSEL (Lt. Wahler): Will you read the question back to the witness please.

(Whereupon the reporter did as requested.)

A I can't give the exact date any more, about one week after I arrived in Schwaebisch Hall for the first time.

Q And what treatment were you afforded at that time?

A The first time I was asked what I knew about it.

Q Were you at any time mistreated at that time?

A No.

Q When were you mistreated at Schwaebisch Hall?

A While being interrogated for the second or third time.

Q On what date did that occur, approximately -- if you recall.

A I believe between the 10th and 15th of March.

Q And where were you interrogated, at what building in Schwaebisch Hall?

A It was the interrogation cell in the jail.

Q Who was present at the time you were mistreated?

A This gentleman over there.

Q Which one are you pointing at, Agather?

A The second one from the right.

DEFENSE COUNSEL (Lt. Wahler): Let the record show that the witness is pointing at Lt. Perl.

Q Was there anyone else present at that time?

A Yes, the Polish guard was present at one time.

Q Now, tell us what took place at this time?

A I had written down a statement that I had been present at the speech and that was given back to me with the remark that was all.

Q Were you physically mistreated at that time?

A Well, I have been interrogated several times.

Q I asked the question: Were you physically mistreated at that time?

A At that interrogation?

Q At that interrogation, yes?

A I can't say.

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Q Were you threatened at that time?

A Yes.

Q Tell us what happened?

A I was threatened that the testimony was already in, the prosecutor knew everything and all I would have to do is testify to that 1st Lt. Tomhardt put out an order against making prisoners of war.

Q Who told you that?

A The second gentleman from the right told me that.

Q Did he say anything else to you?

A Yes.

Q What?

A This was my last chance, that if I didn't say so now I'd be hanged in a few minutes.

Q Did anyone strike you at that time?

A I don't know whether that was during this interrogation I was beaten repeatedly.

Q At the time that you were threatened did you make a statement?

A Yes.

Q And what did you say?

A That I was present at the speech of 1st Lt. Tomhardt.

Q Did you say anything else?

A That I was not present at any shooting of prisoners of war during the Malmedy Offensive.

Q Did Mr. Thon or Lt. Perl say anything further to you?

A If I don't say the truth my parents would be used.

Q Did they say anything further?

A My parents are in Lotz in Poland and the Poles would take care of my parents.

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Q Which one of the gentlemen made that statement to you?

A The second gentleman from the right.

DEFENSE COUNSEL (Lt. Wahler): Let the record indicate that Mr. Thon is pointed out.

Q Was anything further said to you?

A That I myself had been present at shootings and I was confronted with the accused there and they too testified to that I was present at a shooting.

Q Were you threatened in any other fashion?

A I was put in a solitary confinement cell and I was told: "You're now being put into a sinners' cell; these will be your last days."

Q How long did you remain in that cell?

A About one week.

Q Who told you that you were going to be placed in this cell?

A The second gentleman here.

DEFENSE COUNSEL (Lt. Wahler): Let the record indicate Mr. Thon has been pointed out.

Q How were you treated -- strike that. How were you treated while in this cell?

A I received only one blanket in my cell and had to freeze in the cell all day.

Q How was your food?

A It was good.

Q How did this cell differ from the one that you occupied previously?

A There was only a very low wooden bunk there and the cell was barred much more strongly than the others and the window was open in my cell day and night.

Q Did this cell have any particular name to it?

A I don't know about that -- it was known as a cell of poor sinners.

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(Agather-Redirect)

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Q When were you beaten at Schwaebisch Hall?

A During the second or third interrogation.

Q Who was present at that time?

A This gentleman.

DEFENSE COUNSEL (Lt. Wahler): Let the record indicate

Mr. Thon.

Q And who else?

A There was nobody else present.

Q Tell us what happened at that time?

A I repeated my testimony that I wanted to stick to the truth and couldn't state that 1st Lt. Tomhardt had said in his speech that prisoners of war would be shot, and that I, myself, shot the prisoners of war in La Gleize.

Q Tell us what happened concerning any physical punishment that you received at that time?

A I was beaten in the face.

Q And who beat you in the face?

A This second gentleman there.

DEFENSE COUNSEL (Lt. Wahler): Let the record indicate

Mr. Thon.

Q How many times were you hit in the face?

A I don't remember the exact number of blows.

Q Did you have any bruises or marks on your face after the punishment was administered?

A No wounds.

Q Did you have any marks or bruises?

A I can't say. I didn't have a mirror in the cell.

Q Were you hit at any other time?

A I was beaten during two or three interrogations.

Q And who administered these beatings?

A That gentleman.

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DEFENSE COUNSEL (Lt. Wahler): Let the record indicate  
Mr. Thon.

Q On what parts of the body were you hit at this time, or  
in this interrogation?

A The face, and I was thrown on the ground in the corner.

Q And who did this?

A That gentleman, Thon.

DEFENSE COUNSEL (Lt. Wahler): Let the record indicate  
Mr. Thon.

Q Do you know Mr. Kirschbaum; he's the sixth gentleman  
sitting at the prosecution's table?

A The sixth one?

Q Yes.

DEFENSE COUNSEL: (Lt. Wahler) Stand up, please.

(Whereupon Mr. Kirschbaum, a member of the prosecution,  
stood up as requested.)

A Yes, I remember the gentleman.

Q When did you last speak to Mr. Kirschbaum?

A I think that was day before yesterday.

DEFENSE COUNSEL (Lt. Wahler): That is all, I have no  
further questions.

PRESIDENT: Court will adjourn until eight-thirty  
tomorrow morning.

(Whereupon the court adjourned at 1200 hours.)

0007114

IN RE UNITED STATES OF AMERICA VS. HEINZ TOMHARDT

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the prosecution and the attorneys for the defense, that upon the trial of Obersturmfuehrer

HEINZ TOMHARDT, Company Commander, 11th Co, 3rd SS Pz. Grenadier Bn., L.S.S.A.H., accused the following facts will not be disputed:

1. That in the vicinity of Stavelot on 18 December 1944 Lt. Tomhardt was wounded.
2. That on the 22 December 1944 Lt. Tomhardt was sent to the rear and at Stadtkyll / Germany was put on a hospital train and arrived on 23 December 1944 at the hospital at ATTENDORN / Westf., where he remained until 1 February 1945.

DATED 8 May, 1946.

*William M. Egan, Col. M.D.*  
CHIEF COUNSEL FOR DEFENSE

*Burton F. Elin, Col. M.D.*  
CHIEF COUNSEL FOR PROSECUTION

