





**TRIAL**  
**OF**  
**THE MAJOR WAR CRIMINALS**

**BEFORE**  
**THE INTERNATIONAL**  
**MILITARY TRIBUNAL**

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VOLUME XI

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OFFICIAL TEXT  
IN THE  
ENGLISH LANGUAGE

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PROCEEDINGS  
8 April 1946 — 17 April 1946

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# ONE HUNDRED AND SECOND DAY

Monday, 8 April 1946

## *Morning Session*

SIR DAVID MAXWELL-FYFE (Deputy Chief Prosecutor for the United Kingdom): I want to ask you some questions about the shooting of officers who escaped from Sagan Camp. As I understand your evidence, very shortly after the escape you had this interview with Hitler at which certainly Himmler was present. That is right, isn't it?

WILHELM KEITEL (Defendant): The day after the escape this conference took place with the Führer and with Himmler.

SIR DAVID MAXWELL-FYFE: Yes. Now, you say that at that conference Hitler said that the prisoners were not to be returned to the Wehrmacht but to remain with the police. They were really your words. That is right, isn't it?

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: That is what you said. So that is what you say took place. In your own mind you were satisfied when you left that conference that these officers were going to be shot, were you not?

KEITEL: No, that I was not.

SIR DAVID MAXWELL-FYFE: Now, will you agree with this? You were satisfied that there was a grave probability that these officers would be shot?

KEITEL: As I rode home I had a subconscious concern about it. It was not expressed at the conference.

SIR DAVID MAXWELL-FYFE: Then you sent for General Von Graevenitz and General Westhoff, did you not?

KEITEL: Yes, that is correct.

SIR DAVID MAXWELL-FYFE: I don't know if you can remember, because General Westhoff was a comparatively junior officer compared with yourself, but he says that it was the first occasion on which you had sent for him. Does your memory bear that out?

KEITEL: No, I did not call him. But he had been brought along to be introduced to me. I did not know him. I had summoned only General Von Graevenitz.

SIR DAVID MAXWELL-FYFE: You had never met him before? Do you agree that you had never met General Westhoff before, since he had come into that job?

KEITEL: I had never seen him before.

SIR DAVID MAXWELL-FYFE: That is what he said. Now you agree, as I understand your evidence, that you were very excited and nervous?

KEITEL: Yes, I vented my disagreement and my excitement very strongly.

SIR DAVID MAXWELL-FYFE: So that you agree with General Westhoff that you said something to this effect, "Gentlemen, this is a bad business" or "This is a very serious matter" or something of that kind?

KEITEL: Yes, I said, "That is an enormously serious matter."

SIR DAVID MAXWELL-FYFE: Now, General Westhoff said, in the next sentence, what you said was, "This morning Göring reproached me in the presence of Himmler for having let some more prisoners of war escape. It was unheard of."

KEITEL: That must be a mistake on Westhoff's part. It was a day later. We were then at Berchtesgaden and Generals Von Graevenitz and Westhoff called on me the next morning. And it must also be a mistake that I mentioned the name of the Reich Marshal Göring in this connection.

SIR DAVID MAXWELL-FYFE: So you were not very sure about that, were you, as to whether or not Göring was present. You were not very sure, were you?

KEITEL: I only became uncertain about it when in a preliminary interrogation I was told that witnesses had stated that Göring was present; thereupon I said it is not completely impossible but that I did not recall it.

SIR DAVID MAXWELL-FYFE: Well, to put it quite right, when you were interrogated, an American officer put exactly the sentence that I put to you now. He put that sentence to you from General Westhoff's statement. Do you remember that he read what I have read to you now? "Gentlemen, this is a bad business; this morning Göring reproached me in the presence of Himmler for having let some more prisoners of war escape. It was unheard of." Do you remember the interrogator put that to you? Didn't he?

KEITEL: It was something like that at the preliminary interrogation, but I said that I was not certain that Göring was present.

SIR DAVID MAXWELL-FYFE: I was going to put exactly what you said—and you listen carefully, and if you have any disagreement, tell the Tribunal. You said, "I request that you interrogate



Jodl about the whole incident and the attitude which I displayed during the whole conference in the presence of Göring, of whose presence during that conference I am not absolutely certain, but Himmler was there." That was your view when you were interrogated on the 10th of November, wasn't it? You said, "... during the whole conference in the presence of Göring, of whose presence I am not absolutely certain..." That was your view on the 10th of November?

KEITEL: There must have been some misinterpretation in the minutes, which I never read. I expressed my uncertainty about the presence of Göring and in the same connection put the request to interrogate General Jodl about it, since, in my opinion, I was not sure that Göring was not present.

SIR DAVID MAXWELL-FYFE: You agree that you did ask that General Jodl should be interrogated?

KEITEL: I made that proposal, yes.

SIR DAVID MAXWELL-FYFE: Well now, what do you complain about as to the next sentence? "... during the whole conference in the presence of Göring, of whose presence during that conference I am not absolutely certain..." Wasn't that your view?

KEITEL: Yes, I was rather surprised at this interrogation and when I was told that witnesses had confirmed that Göring had been present I was a little uncertain in this matter and asked that General Jodl be interrogated. In the meantime it became entirely clear to me that Göring was not present and that I was right as I had at first said.

SIR DAVID MAXWELL-FYFE: Had you discussed it with Göring while you were both awaiting trial?

KEITEL: After my interrogations I had the occasion to speak with Reich Marshal Göring and he told me, "But you must know that I was not there," and then I remembered fully.

SIR DAVID MAXWELL-FYFE: Yes, as you say, the Reich Marshal said to you he had not been present at the interview. That is right, is it not?

KEITEL: General Jodl also confirmed to me Reich Marshal Göring was not present.

SIR DAVID MAXWELL-FYFE: Well now, did you tell General Von Graevenitz and General Westhoff that Himmler had interfered and that he had complained that he would have to provide another 60 to 70 thousand men for the Landwache? Did you tell them that?

KEITEL: No, that is also a misinterpretation. I did not say that. It is not correct.

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SIR DAVID MAXWELL-FYFE: You said that Himmler had interfered.

KEITEL: I said only that Himmler had reported the fact of the escape and I intended not to report it to Hitler on that day, since a number of escapees had been returned to the camp. I did not intend to report to the Führer on that day.

SIR DAVID MAXWELL-FYFE: Now, whatever you said to General Von Graevenitz, you agree that General Von Graevenitz protested and said, "Escape is not a dishonorable offense. That is specially laid down in the Convention." Did he not say that?

KEITEL: Yes, it is true he said that. But I would like to add that the statement of General Westhoff is a reminiscence which goes back over several years.

SIR DAVID MAXWELL-FYFE: Yes, but you agree, as I understand your evidence, that General Von Graevenitz did make a protest about the action that was taken, is not that so?

KEITEL: Yes, he did so.

SIR DAVID MAXWELL-FYFE: And then when he made the protest did you say words to this effect? I am reading of course from General Westhoff's statement, "I do not care a damn. We discussed it in the Führer's presence, and it cannot be altered." Did you say words to that effect?

KEITEL: No, it was not like that, but I do believe I said something similar.

SIR DAVID MAXWELL-FYFE: Similar?

KEITEL: But we are not concerned with . . .

SIR DAVID MAXWELL-FYFE: Similar, to that effect?

KEITEL: I said something similar.

SIR DAVID MAXWELL-FYFE: And after that did you say that your organization, the Kriegsgefangenenwesen, were to publish a notice in the prison camps where prisoners of war are held, telling all prisoners of war what action had been taken in this case, in order that it would be deterrent to other escapes?

Did you instruct these generals, your heads of the Prisoners of War Organization, to publish a notice in the camps saying what action had been taken in order to act as a deterrent?

KEITEL: I gave this due consideration while reading a report by the British Government and I came to the conclusion that there must be some confusion as to when I gave these instructions. I am sure I did not do so at this conference. That was later, several days later.

**SIR DAVID MAXWELL-FYFE:** Well, you will find it is stated in the statement of General Westhoff that we put in, at the bottom of Page 3. General Westhoff says:

“The Field Marshal gave us detailed instructions to publish a list at the camps, giving the names of those shot as a warning. That was done. That was a direct order that we could not disobey.”

And in the statement which your counsel has put in, General Westhoff says:

“This must stop. We cannot allow this to happen again. The officers who have escaped will be shot. I must inform you that most of them are already dead and you will publish a notice in the prison camps where prisoners of war are held telling all prisoners of war what action has been taken in this case in order that it will be a deterrent to other escapes.”

**KEITEL:** May I make a statement to this?

**DR. OTTO NELTE (Counsel for Defendant Keitel):** The British Prosecutor is referring to a document which I submitted in my document book. I assume that is correct. And it is a document which the French Prosecution wanted to submit and to which I objected, since it is a compilation of interrogations which Colonel Williams prepared. I submitted this document so as to furnish proof at the hearing of General Westhoff that this document does not agree in 23 points with the testimony given by him. He has given me the necessary information. But he will first be in the witness box tomorrow. I therefore ask, if the British Prosecutor appeals to the Witness Westhoff, to produce at least his statement which he made under oath at the request of the American prosecutor Colonel Williams. This affidavit up to now has not been produced, whereas all other pieces of evidence from him contain only reports which have never been submitted to Westhoff for his signature, or for his acknowledgement, nor have been confirmed by his oath.

**SIR DAVID MAXWELL-FYFE:** My point was to make quite clear that I was not putting anything in from the first statement which was not contained in the defendant's document book. I thought that the complaint would be the other way, that if I took our own evidence alone that then it would be said that it is slightly different, for the difference is immaterial from the documents submitted in the defendant's document book. I have carefully collated them both. There is practically no difference between them but I thought it was only fair to put both sets of words.

**THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence):** The Tribunal thinks the cross-examination is perfectly proper. Of course if Dr. Nelte does call General Westhoff as a witness, he will be able

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to get from him any corrections which General Westhoff thinks are necessary, which he makes to the affidavit.

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

[Turning to the defendant.] Now, what I want to know is: Did you give orders to General Von Graevenitz and General Westhoff that it was to be published in the camps as to what measures had been taken with regard to these officers?

KEITEL: Yes, but several days later; not on the same day that these officers were with me.

SIR DAVID MAXWELL-FYFE: How long later?

KEITEL: I believe 3 or 4 days later, but I can no longer tell you exactly; in any event, not before I found out that shootings had taken place.

SIR DAVID MAXWELL-FYFE: Well, 3 or 4 days later would be just when the shootings were beginning, but what was published? What did you say was to be published as to the measures that had been taken?

KEITEL: In the camp a warning was to be published. In my opinion, we were not to mention shootings but only warn that those caught in flight would not be returned to the camp. I cannot remember the exact wording. It was traceable to an order which I had received from the Führer resulting from a conference I had with him on the matter of shootings.

SIR DAVID MAXWELL-FYFE: Well, is this a fair way to put your recollection of the order: That it was probable, according to your recollection, that those who attempted to escape would be handed over to the SD and, certainly, that very severe measures would be taken? Is that a fair way of putting your recollection of the order?

KEITEL: My recollection is that a warning, that is a threat, was to be published to the effect that those who attempted to escape would not be returned to the camp. That was the contents of this publication, according to my recollection, which I then forwarded. I myself did not word it. Besides, only the administration of the camp, or rather the Luftwaffe were to be notified.

SIR DAVID MAXWELL-FYFE: Now, General Westhoff was not content with an oral order and came back to you with a draft order in writing, did he not?

KEITEL: I do not believe that he came to me. I believe he sent me this.

SIR DAVID MAXWELL-FYFE: I am sorry, but when I said "came back to you," I was talking generally; you are quite right

that he passed on for your consideration a draft order in writing for you to approve; that is right, isn't it?

KEITEL: I do not believe that it was an order; but as far as I remember it was just a memorandum, a note. However, I must add that I was first reminded of this matter in the course of the interrogation by Colonel Williams.

SIR DAVID MAXWELL-FYFE: Well, what General Westhoff says, is:

"Contrary to Feldmarschall Keitel's order, I pretended that I had not understood properly. I worked the thing out on paper. I said to Oberstleutnant Krafft, 'I want to have the word "shoot" included, so that Keitel can see it in writing. He may adopt a different attitude then.'"

Now, this is a bit later:

"When I got the thing back, he had written the following in the margin: 'I did not definitely say "shoot"; I said "hand over to the police or hand to the Gestapo."'"

Then adds General Westhoff:

"So, that was a partial climb down."

Now, did you put a note on it: "I did not definitely say 'shoot'; I said 'hand over to the police or hand over to the Gestapo.'" Did you?

KEITEL: I cannot remember the exact wording of the note—as little as General Westhoff. But I did make a notation in the margin to the effect: "I did not say 'shoot'..."

SIR DAVID MAXWELL-FYFE: You see the point that I'm putting to you, Defendant? I want you to have it perfectly clear. Rightly or wrongly, General Westhoff believed that you had inserted the word "shoot"; and General Westhoff, to protect himself, put it back to you; and then you say, "I did not definitely say 'shoot'; I said 'hand over to the SD or the Gestapo.'"

KEITEL: No, I did not say "shoot" either, but Colonel Williams said I had written in the margin, "I did not say 'shoot.'" That is on record in the minutes of my interrogation.

SIR DAVID MAXWELL-FYFE: Well, now, what I want to know—and it is perfectly clear—is, do you deny that that in substance represents what you put in the document: "I did not definitely say 'shoot'; I said, 'hand over to the police or hand over to the Gestapo'"? Did you put words to that effect on the document?

KEITEL: It is probable that I wrote something similar to that for I wanted to make clear what I had said to those two officers. What I said was nothing new, but it was a clarification of what I had said.

SIR DAVID MAXWELL-FYFE: Now, the next point that I want to direct your attention to: Had you an officer on your staff called Oberst Von Reurmont, on your PW staff, Kriegsgefangenenwesen?

KEITEL: No, he was never on my staff.

SIR DAVID MAXWELL-FYFE: What was his position in the OKW?

KEITEL: I believe there was a Colonel Reurmont. He was a department chief and had nothing to do with the prisoner-of-war system; he was department chief in the general Wehrmacht office.

SIR DAVID MAXWELL-FYFE: In your office.

KEITEL: In the office, in the general Wehrmacht office under General Reinecke, yes.

SIR DAVID MAXWELL-FYFE: Do you know that on 27 March, that is on a Monday, there was a meeting, in which Colonel Von Reurmont took the chair, attended by Gruppenführer Müller from the Gestapo, Gruppenführer Nebe, and Colonel Wilde from the Air Ministry, from their PW inspector of 17; do you know that?

KEITEL: No, I never heard anything about it. It has remained entirely unknown to me.

SIR DAVID MAXWELL-FYFE: Are you telling the Tribunal that you had this colonel in your office, a colonel from the Air Ministry, two extremely important officials from the police, and they have a meeting to discuss this matter 2 days after you had your first meeting, 1 day after you had seen Von Graevenitz and Westhoff, and you did not know a word about it?

KEITEL: No, I knew nothing about this meeting. I cannot remember.

SIR DAVID MAXWELL-FYFE: Now, most of us are very familiar with the working of service departments. I do ask you in fairness to yourself to consider this. Are you telling this Tribunal that no report was ever made to you of that joint meeting between the representative of the OKW, high police officials, and the Air Ministry? And it never came up to you? Now, really think before you answer.

KEITEL: I cannot remember even with the best of my will. I was surprised by the communication about this conference, and I can remember nothing about it.

SIR DAVID MAXWELL-FYFE: Do you know that—I put it in Colonel Welder's statement when I was cross-examining the Defendant Göring—he said that at that conference it was announced that these officers were to be shot and that many of them had been shot? Did no report come to you that these officers were being shot and were to be shot?

KEITEL: No, not on the 27th. It was already discussed a while ago, when I received the first report. At that time I knew nothing about it; on that day, or even on the day following this conference.

SIR DAVID MAXWELL-FYFE: You agreed, though, that you got to learn, as I understand you, that they were being shot on the 29th; that would be a Thursday?

KEITEL: I can no longer say what day, but I do remember that it was later. I believe it was several days later.

SIR DAVID MAXWELL-FYFE: Well, let us, Defendant, make every point in your favor. Let us take it that it was, say, Saturday the 31st, or even Monday, the 2d of April. By Monday, the 2d of April—that is 9 days after the escape—you knew then that these officers were being shot?

KEITEL: I heard about it during these days, perhaps around the 31st, through the Führer's adjutancy when I again came to the Berg-hof for a situation briefing. I was not told though, that all of these officers had been shot; some of them had been shot while attempting to flee. I was told that a little before the beginning of the conference.

SIR DAVID MAXWELL-FYFE: They were not all shot until the 13th of April, which was nearly another fortnight. Were you told of the manner, in which they got out of the cars to relieve themselves and were then shot in the back of the head by someone with a revolver? Were you told of that?

KEITEL: No, I found out only through the adjutant that a report had been given to the Führer that shootings had followed the escape.

SIR DAVID MAXWELL-FYFE: Now, I want you to come to one other point, later on. You remember that my colleague, Mr. Eden, on behalf of the British Government, made a statement in the House of Commons later on, toward the end of June. Remember that?

KEITEL: Yes. I recall that.

SIR DAVID MAXWELL-FYFE: And is it correct, as General Westhoff said, that you had told your officers not to make contact with the Foreign Office or the Gestapo, to leave this matter alone and not try and find out anything about it? Is that right?

KEITEL: I told them that since the Wehrmacht was not concerned with the means of searching for and catching the escapees, nor concerned with what happened afterwards, the office for the prisoner-of-war matters could not give any information on this subject as it did not deal with the matter itself and did not know what had really happened. That is what I said.

SIR DAVID MAXWELL-FYFE: Then the answer is, yes, that you did tell your office to leave the matter alone and not to get in touch with the Foreign Office or the police?

KEITEL: No, that is not quite right. The chief of the Amt Ausland was connected with the Foreign Office. I only instructed that the officers should not give any information about this case or any matters connected with it, since they had not participated and knew only from hearsay what had happened.

SIR DAVID MAXWELL-FYFE: I should have thought that my previous question—you just repeated the effect of my previous question; I won't argue with you. I will come to the next point. You had an officer on your staff named Admiral Bürckner, didn't you?

KEITEL: Yes, he was chief of the Amt Ausland.

SIR DAVID MAXWELL-FYFE: He was liaison between your office and the Foreign Office?

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: Now, did you give him orders to prepare an answer to England, an answer to Mr. Eden's statement?

KEITEL: It is possible that I told him that, even though he could not receive any particulars from the offices of the Wehrmacht.

SIR DAVID MAXWELL-FYFE: I don't want to read it again; I read the reply a day or two ago. But eventually the reply was drawn up, I think, by the Foreign Office in conjunction with Oberstleutnant Krafft of your office, wasn't it?

KEITEL: No, at that time...

SIR DAVID MAXWELL-FYFE: Don't you remember Krafft...

KEITEL: I gave instructions that the answer was to be dealt with by the RSHA but not by the prisoner-of-war department. I did not give any instructions to Lieutenant Colonel Krafft.

SIR DAVID MAXWELL-FYFE: But didn't he go to Berchtesgaden to assist the representative of the Foreign Office and Hitler in drawing up a reply?

KEITEL: I do not know. I did not speak with him nor did I see him.

SIR DAVID MAXWELL-FYFE: You know that when they saw the reply, according to General Westhoff, all your officers touched their heads and said, "Mad." You have seen that statement, haven't you; "When we read this note to England in the newspaper we were all absolutely taken aback; we all clutched our heads—'Mad'—we could do nothing about the affair." All your officers and you, yourself, knew the reply was an utter and confounded lie. Wasn't it a complete and utter lie? You all knew it.



KEITEL: They all knew it. I, too, learned of the reply; and it was clear to me that it was not based on the truth.

SIR DAVID MAXWELL-FYFE: So that it comes to this, Defendant, doesn't it—that you will go as far as this: You were present at the meeting with Hitler and Himmler. That is what you say. At that meeting Hitler said that the prisoners who were caught by the police were to remain in the hands of the police. You had a strong probability that these prisoners would be shot and with that you used this incident as a deterrent to try and prevent other prisoners of war escaping. All that you admit, as I understand your answers this morning, don't you?

KEITEL: Yes, I do admit; but I have not been interrogated on this matter as to just what my position was with Hitler, and I have not testified as to that, and that I did not give this warning, but that this warning was an order of Hitler and was the cause for another severe collision between Hitler and me when the first report of shootings reached me. That is how it was.

SIR DAVID MAXWELL-FYFE: I won't go through the details again.

One other point: When did you learn of the use of cremation and the sending of cremation urns to this camp?

KEITEL: This remained unknown to me and I do not recall ever having heard of it. The matter was afterwards purely a concern of the Luftwaffe, in which I was later involved, through my simple presence; I do not know whether I ever heard or saw anything about this.

SIR DAVID MAXWELL-FYFE: But you will agree with me, Defendant, that anyone in the world who has had to deal with prisoner-of-war problems would be horrified at the thought of bodies of shot officers being cremated; it is simply asking for trouble, isn't it, from the protecting powers and everyone else, to put it at its lowest? You will agree with that; I am sure you have had a good deal more to do with prisoners of war than I. Don't you agree it would horrify anyone who has to deal with prisoners of war that bodies should be cremated—that the protecting powers at once would be put on suspicion?

KEITEL: I am entirely of the same opinion that it is horrible.

SIR DAVID MAXWELL-FYFE: And if any service finds that its camps are receiving 50 urns of ashes of cremated bodies of escaped prisoners of war, that would be a most serious matter which would be taken to the highest ranks of any service, isn't that so?

KEITEL: Yes, even though I had nothing to do with the prisoner-of-war camps of the Luftwaffe apart from having inspectional powers.

SIR DAVID MAXWELL-FYFE: I won't ask you further about the Luftwaffe. Now I think we can deal quite shortly with the question of the lynching of Allied airmen.

*[Documents were handed to the defendant and also to the Tribunal.]*

Now, Defendant, I would like to remind you that there was a report of a conference on the 6th of June, Document 735-PS, which has been put in against the Defendant Ribbentrop; it is a report of General Warlimont, Exhibit GB-151, with regard to the criteria to be adopted for deciding what were terror-fliers. You must remember the document, because you yourself dealt on Friday with the note...

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: ... against legal procedure, which you already dealt with.

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: Now, you said during your evidence—you remember you told us why you did not want legal procedure: Because it was a difficult problem for a court-martial to decide and also it meant a 3-month delay in reporting the death sentence to the protecting powers.

KEITEL: Yes, I did make those statements.

SIR DAVID MAXWELL-FYFE: And then you said that you had a discussion with Göring, who said that lynching should be turned down. Do you remember saying that on Friday.

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: Now, that was not accurate, was it? Because I want to just show you what did happen. That document which you annotated was the 6th of June. And on the 14th of June...

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: ... it is Document D-774, which will be Exhibit GB-307, initialed Warlimont—your office sent a draft letter to the Foreign Office for the attention of Ritter, sending on this formulation of what were terror-fliers. And if you look it over it says that it is necessary to formulate, unambiguously, the concept of the facts which are to constitute a criminal act. And then the draft letter, Document D-775, Exhibit GB-308, to the Commander-in-Chief of the Air Force, for the attention of Colonel Von Brauchitsch, which says that:

"On the basis of the preliminary talks and in agreement with the Reich Foreign Minister and the head of the Security Police

and SD"—the Defendant Kaltenbrunner—"the following facts are to be considered terroristic acts which are to be taken into consideration when publishing a case of lynch law or which justify the handing of enemy airmen from the Air Force Reception Camp of Oberursel to the SD for special treatment."

And then you set out what was agreed and you say:

"Please obtain the consent of the Reich Marshal to this formulation of the facts and, if necessary, give the Commandant of the Air Force Reception Camp of Oberursel verbal instructions to act accordingly.

"It is further requested that you obtain the Reich Marshal's consent also to the procedure intended for the handling of public announcements."

And then if you look at Document D-776, Exhibit GB-309, that is a letter from you to the Foreign Office, a draft letter for the attention of Ritter, dated the 15th of June, to the same effect. You ask him to confirm by the 18th. And then Document D-777, Exhibit GB-310, is a similar draft letter to Göring, marked for the attention of Colonel Von Brauchitsch and asking him to reply by the 18th. Then Document D-778, Exhibit GB-311, records a telephone call from Ritter saying that the Foreign Office will have to delay a couple of days in giving their view. Document D-779, Exhibit GB-312, gives the first note from the Defendant Göring. It says on 19 June:

"The Reich Marshal has made the following notes with regard to the above letter:

"The population's reaction is, in any case, not in our hands; but, if possible, the population must be prevented from acting against other enemy fliers"—I ask you to note the word "other," that is, enemy fliers that do not come within the category of enemy terror-fliers—"to whom the above state of affairs does not apply. In my opinion, a state of affairs as above can also"—and I ask you to note the word "also"—"at any time be tried by a court, as it is here a question of murders which the enemy has forbidden his fliers to commit."

Then, in Document D-780, Exhibit GB-313, there is another copy of the memorandum from the Foreign Office which I read in some detail when I was presenting the case against the Defendant Ribbentrop; and it is interspersed with comments of your officer, General Warlimont, in general agreement with the memorandum. I do not want to go through that again.

Then, in Document D-781, Exhibit GB-314, your office wanted to get quite clear what the Defendant Göring meant, so you write to him again for the attention of Von Brauchitsch:

"It is unfortunately not possible to gather from your letter whether the Reich Marshal has concurred with the facts communicated to him, which in the publication of a case of lynch law are to be regarded as terroristic actions, and whether he is prepared to give the Commandant of the Air Force Reception Camp of Oberursel the verbal instructions to this effect.

"It is again requested that the Reich Marshal be induced to give his consent and that this office be notified if possible, by the 27 instant."

Then, just passing along, Document D-782, Exhibit GB-315—it says that the Foreign Minister will reply in a day or two; and in Document D-783 of the 26th, that will be Exhibit GB-316, comes the answer, a telephone memorandum, a telephone call, adjutant's office of the Reich Marshal, Captain Bräuner:

"The Reich Marshal agrees with the formulation of the concept of terror-fliers as stated and with the proposed procedure. He asks for information this very day about measures taken."

So it is not right, is it, Defendant, that Defendant Göring disagreed with the procedure? Here is a call from his adjutant's office—and it is noted by your office—saying that he agrees with the formulation of the concept and with the proposed procedure. This must be right, must it not?

KEITEL: Yes. I had never seen this document; but I understand, under the applied measures, transfer to the Oberursel camp for Air Force prisoners of war, not lynch law. Perhaps I may add something about the discussion I had with the Reich Marshal...

SIR DAVID MAXWELL-FYFE: It is quite clear. I am not going through the correspondence again. I pointed it out as we went along. Your letters are saying both lynching and the measures to be taken for the publication of lynching and the other procedure of segregating these people in the hands of the SD, pending confirmation of suspicion of terror-fliers. It is quite clear. I have taken you through nearly 10 letters in which it is stated implicitly that it is put to the Reich Marshal on both these points, publication of lynching and segregation from other prisoners of war. He is saying, "I agree with the proposed procedure."

KEITEL: May I add something?

SIR DAVID MAXWELL-FYFE: Yes, do.

KEITEL: I recall very distinctly my discussion with Reich Marshal Göring at the Berghof. We waited for Hitler who was to give a speech to the generals. This must have been at about the same time. In this discussion two points were mentioned. Point one was the conception of the desired—or how should I say—of the planned

or the conceived lynch law. The second question was that my influence with Hitler had not been strong enough to definitely settle this matter. These two points I talked over with Göring that day. We established that the entire method discussed here should be the prerequisite for the free use of lynch law, that we agreed that as soldiers we rejected it; and secondly, I asked him most urgently to use his influence with Hitler again so that he might desist from such measures. This discussion took place at the Berghof in the anteroom of the hall where Hitler addressed the generals. I remember this very distinctly.

I just looked over the correspondence which was exchanged all along. I only recognize certain fragments. They deal with the deliberations on a measure desired by Hitler which, thank goodness, never was adopted, as corresponding orders were not issued.

SIR DAVID MAXWELL-FYFE: Would you look at the next document, Document D-784, Exhibit GB-317. That is a note from General Warlimont to you. Paragraph 1 says that the Foreign Office has agreed; Ambassador Ritter telephoned on the 29th that the Reich Foreign Minister has agreed to this draft. Paragraph 2 says:

“The Reich Marshal is in agreement with the formulation of the concept of ‘terror-flier’ as proposed by the OKW and with the method suggested.”

That is sent to you, and on it there is a penciled note, initialed by Warlimont:

“We must act at last. What else is necessary for this?”

Didn't you act on it?

KEITEL: No.

SIR DAVID MAXWELL-FYFE: Then, why...

KEITEL: As a matter of fact...

SIR DAVID MAXWELL-FYFE: Then why, if you did not act on it, were you asking the Luftwaffe, 4 days later if they had given instructions to the camp at Oberursel? Look at Document D-785, Exhibit GB-318.

THE PRESIDENT: Sir David, it appears to be initialed by the defendant—D-784.

SIR DAVID MAXWELL-FYFE: My copy is initialed “W”, Warlimont.

THE PRESIDENT: D-784, on the copy I have, is initialed “K” at the top, alongside Warlimont's note.

SIR DAVID MAXWELL-FYFE: Oh, yes. I am sorry, My Lord. The fault is entirely mine. My Lord is quite right.

[Turning to the defendant.] So, before I pass from D-784, that was submitted to you and initialed by you?

KEITEL: No, I only put my "K" on Document D-784 to show that I saw it. I wrote nothing on it.

SIR DAVID MAXWELL-FYFE: But the document was submitted to you, and so you did see that document? You knew that both the Foreign Office and Göring were agreeing to this procedure being adopted?

KEITEL: I read it. I wrote "K" on it.

SIR DAVID MAXWELL-FYFE: And 4 days later, in D-785, your department is asking Göring through Von Brauchitsch as to whether they have been carried out:

"Please report whether instructions have been given to the Commandant of the Air Force Reception Camp of Oberursel in the sense of the statements of the Supreme Command of the Armed Forces, Operational Staff, of 15 June, or when it is intended to do so."

KEITEL: I have not seen this document before, but it seems to me to confirm the accuracy of my viewpoint, that in these inquiries to the Reich Marshal the transfer to Oberursel was the only point in question and not whether he wanted lynch law, approved it, or whether he considered it as right. That seems to be quite obvious from this question. I do not know anything about the question itself.

SIR DAVID MAXWELL-FYFE: Please look at Document D-786, Exhibit GB-319. You were going beyond that the next day. This is the 5th of July. It is actually a report of the meeting on 4th July. It says that Hitler decreed the following:

"According to press reports, the Anglo-Americans intend in the future to attack from the air small places, too, which are of no importance militarily or to the war economy, as a retaliatory measure against the 'V-1'. Should this news prove true, the Führer wishes it to be made known through the radio and the press that any enemy airman who takes part in such an attack and is shot down will not be entitled to be treated as a prisoner of war, but, as soon as he falls into German hands, will be treated as a murderer and killed. This measure is to apply to all attacks on small places which are not military targets, communications centers, armament targets, and the like, and therefore, are not of importance to the conduct of war.

"At the moment nothing is to be ordered; the only thing to be done is to discuss such a measure with the Wi. Rü and the Foreign Office."

So that, far from modifying the matter, you were increasing the severity of the measures to be taken, that is to say, Hitler is increasing the severity of the measures to be taken.

KEITEL: I do not remember this; but if that note was made at that time, something like that must have been mentioned by him in this conference, but I do not remember the incident.

SIR DAVID MAXWELL-FYFE: I only want to put this point to you. You have said twice, on Friday and again today, that no order of the Wehrmacht had been issued. It would not need an order of the Wehrmacht to encourage the population to lynch fliers who had crashed. All that would be required to produce that result would be to hold off the police from arresting people who murdered them, would it not? You would not need an order of the Wehrmacht to encourage your population to murder fliers who had crashed, would you?

KEITEL: No, there was only the Wehrmacht which exclusively had the right to take a shot-down or landed airman into custody, and protect him against lynching of the population, and prevent anything like that from happening.

SIR DAVID MAXWELL-FYFE: You will agree with me that once an American or British airman was handed over to the SD, his chance of survival would not be—what—one in a million? He would be killed, would he not?

KEITEL: I did not know it then; I only heard it here. I did not know it at the time.

SIR DAVID MAXWELL-FYFE: You will agree that that was in fact what happened; when an airman was handed over to the SD, he would be killed, would he not? That is what would happen?

KEITEL: I did not know that it was so, but in this...

SIR DAVID MAXWELL-FYFE: I am not saying what you believe. Now we know what would happen?

KEITEL: No.

SIR DAVID MAXWELL-FYFE: You have told us several times that you did not know anything about the SD. In fact, at one time, you were a sort of a court of appeal from the SD in France, were you not? You confirmed the killings by the SD in France, did you not?

KEITEL: I do not recall that I should have made any regulation.

SIR DAVID MAXWELL-FYFE: French Exhibit, Document Number RF-1244. I am afraid that I do not have a German copy, but this is what it says:

"Paris, 6 August 1942.

"In the criminal proceedings against the French citizens:

"(1) Jean Maréchal, born on 15 October 1912.

"(2) Emmanuel Thépault, born on 4 June 1916.

"Field Marshal Keitel, acting within the powers given to him on 26 and 27 June 1942 by the Führer in his office as Commander-in-Chief of the Army, has refused to pardon these two men condemned to death and has ordered that the sentences should be executed within the scope of the general punishments."

They were condemned by the Tribunal de la Feldcommandantur at Evreux, and this was sent to the Commandant de la Police de Sûreté et du SD—sent to the Commandant of the Police of the Sûreté and of the SD. Does that not show that you were dealing with a confirmation of sentences of death and passing on your confirmation to the SD?

KEITEL: This entire incident is an enigma to me. It happened in several cases that the Führer, to whom I submitted all decisions which, as Supreme Commander, he had to ratify—that I may have put the signature, "By order of the Commander-in-Chief of the Army, Keitel." By order—that might have been possible, otherwise I know nothing about it.

SIR DAVID MAXWELL-FYFE: Well, it does not look like that. Let me remind you of the words, "Maréchal Keitel, dans le cadre des pouvoirs qui lui ont été donnés les 26 et 27 Juin 1942." That date. It is acting within the powers given to you by the Führer. Had you not been given the powers?

KEITEL: No, I did not have any such powers in that case. That is a mistake. However, I may have put a signature, "By order of the Commander-in-Chief of the Army, Keitel, Field Marshal."

THE PRESIDENT: Are you passing from that?

SIR DAVID MAXWELL-FYFE: Yes, I was going to pass on.

THE PRESIDENT: Well, isn't Document D-775 relevant to that? The last line of the first paragraph.

SIR DAVID MAXWELL-FYFE: My Lord, I am very grateful to you.

THE PRESIDENT: D-775. As I understand it, the defendant was saying that he did not know what would necessarily happen to these prisoners if they were handed over to the SD. Those are the last words of the first paragraph.

SIR DAVID MAXWELL-FYFE: Very good, My Lord.



[Turning to the defendant.] The words are, "... the handing over of airmen from the Air Force Reception Camp at Oberursel to the SD for special treatment."

We know, Defendant, that "special treatment" means death. Didn't you know, in 1944, what "special treatment" meant?

KEITEL: Yes, I know what "special treatment" meant. I do know that.

SIR DAVID MAXWELL-FYFE: Now, there is just one other point in the document which my friend General Rudenko put to you—on Saturday, I think it was, or Friday evening—Document EC-338. You remember General Rudenko put this. This document is the report of Admiral Canaris about treatment of prisoners of war, dealing with the position of the Soviet Union as not being signatory to the Convention. You remember the point that Admiral Canaris put to you, that although they were not signatories, since the 18th century there had been established a practice that war captivity was neither revenge nor punishment, but solely protective custody. Do you remember the document? It was a report from Canaris to you as of the 15th of September 1941, putting out the position of prisoners of war of a country that had not signed the Convention. You remember, you said you agreed with it but that you had to put on this statement that it was nonsense from the point of view of the present situation because it arose from a military concept of chivalrous warfare, that this was the destruction of an ideology. You said that you had to put that on, on Hitler's instructions. Do you remember?

KEITEL: I had submitted to him the procedure and I asked that he read this, and upon that, I wrote out this note.

SIR DAVID MAXWELL-FYFE: Yes. Now, there is a Paragraph 3-aa which I want you to have in mind at the moment on the point I am dealing with now:

"The screening of the civilians and politically undesirable prisoners of war, as well as the decision over their fate, is effected by the action detachments of the Security Police ..."

Sicherheitspolizei—that is underlined in purple, that is, it is your underlining, and opposite it is your pencilled note, "very efficient." That is, "action detachments of the Security Police, very efficient." Then it goes on, "... and the SD." Then Admiral Canaris says, "... along principles which are unknown to the Wehrmacht authorities." And you have put opposite "unknown to the Wehrmacht authorities": "not at all." Do you remember doing that?

KEITEL: I cannot recall it at the present moment. I must have made this remark in reference to the fact that this was unknown to the Wehrmacht. I think that is right.

SIR DAVID MAXWELL-FYFE: You see, it is perfectly clear. Admiral Canaris says it is unknown to the Wehrmacht authorities, and you put opposite to that, in your penciled notation, "not at all." You could not have gotten that from Hitler; that must have been your own point, was it not, if you put in, in pencil, "not at all"? You must have thought that they were known to the Wehrmacht.

KEITEL: Not at all.

*[The defendant read the document.]*

I cannot clarify this statement. I put these remarks down in a hurry. I cannot identify or define them, neither can I give any clear explanation, because I do not know. However, I have the recollection that I wanted to make, or did make, a note to the effect that it remained unknown to the Wehrmacht and that is correct.

SIR DAVID MAXWELL-FYFE: Now, I just want to take you quite shortly on the last of my points, and then ask you one question about it. You have said to the Tribunal, I should think probably at least 25 times, that you were not interested in politics, that you simply took your orders as to military preparations. I just want to ask you a little about that.

First of all, let us take the Austrian problem. I only want to put one document to you there. You remember Defendant General Jodl's account in his diary about the pretended military movements which, according to Defendant Jodl—I gather that you said that General Lahousen took a different view—had an immediate effect in Austria? Do you remember that? You must remember that.

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: Now, you suggested, did you not, these false military movements?

KEITEL: No, I neither devised nor suggested them; but it was an instruction of the Führer as he dismissed me that evening. I would not have thought of that myself.

SIR DAVID MAXWELL-FYFE: You have the document books that I gave you. Just look at that. It is 113 of the German document book.

It is 131 of Your Lordship's document book, the larger document book.

Now, this is your document of the 13th, Defendant.

KEITEL: Yes, I recall.

SIR DAVID MAXWELL-FYFE: And it says, if you look at Paragraph 1, to take no real preparatory measures in the Army or Luftwaffe, no troop movements or redeployments, to spread false but quite credible news which may lead to the conclusion of military

preparations against Austria. And it is through people in Austria and your customs personnel and through agents that you sent out the news, and by a make-believe wireless exchange and through maneuvers.

Now, you put that up to Hitler, and on the 14th Captain Eberhard gives the information by phone that the Führer has given his approval on all points. You were putting up what the false news and the false preparations were to be in order to get a political effect in Austria, were you not?

KEITEL: I made the proposal on the basis and instigation of instructions which had been given to me on my return to Berlin.

SIR DAVID MAXWELL-FYFE: Well now, I only want to deal quite shortly with this, and I think I can, but I want to show the same point with regard to Czechoslovakia.

Before you became Chief of the OKW you had been under Von Blomberg at the Ministry of War. Had you seen Von Blomberg's plan for the invasion of Czechoslovakia, the directive dated 24 June 1937?

KEITEL: Yes, I knew that.

SIR DAVID MAXWELL-FYFE: You have?

KEITEL: Yes. It was no directive for an invasion; it was the annual preparatory work for mobilization. That is what it was and what I know.

SIR DAVID MAXWELL-FYFE: Well, Paragraph 2 reads:

"The task of the German Wehrmacht is to prepare in such a way that the bulk of the whole strength can break into Czechoslovakia quickly, by surprise, with the greatest force."

I should have thought that was a preparation for an invasion. All I want, at the moment, is to know this: You knew of that plan, Defendant, did you not?

KEITEL: I believe, yes, that I read it at that time, but of course I do not remember the details any more.

SIR DAVID MAXWELL-FYFE: Now, you told this Tribunal that the first that you heard of the Führer's plans against Czechoslovakia in 1938 was the interview with the Führer that you had on 21 April 1938. It is very easy to forget something, and I am not putting it to you that you are lying, Defendant, on this point. But that is not accurate, is it? You had correspondence with the Defendant Von Ribbentrop as early as the 4th of March, 6 weeks before, on this point, had you not, about the liaisoning with the Hungarian High Command? Isn't that correct?

KEITEL: I cannot remember that; I have no idea.

SIR DAVID MAXWELL-FYFE: Just look at it. You see my point? You are stating that you were not dealing with politics, but if you will look at this document that I will give you in a moment—it is 2786-PS—you will see that it is apparently a letter from the Defendant Von Ribbentrop to you:

“Most Honored General: Enclosed I forward to you the minutes of a conference with the local Hungarian Ambassador for your confidential cognizance. As you can judge from it, Mr. Sztojay suggested that possible war aims against Czechoslovakia be discussed between the German and Hungarian Armies. I have many doubts about such negotiations. In case we should discuss with Hungary possible war aims against Czechoslovakia, danger exists that other parties as well would be informed about this.

“I would greatly appreciate it if you would notify me briefly whether any commitments were made here in any respect.”

And the Foreign Ministry encloses the minutes of his conversation with the ambassador.

KEITEL: I remember this incident only so far as an invitation by General Von Ratz was concerned. I did not know at all just what was to be discussed. Von Blomberg had been invited by Von Ratz also, and in my ignorance I questioned Hitler whether I should make such a visit. Hitler agreed and told me that he considered it appropriate. However, an operational General Staff meeting did not take place, it was just a hunting visit with General Ritter von Ratz.

THE PRESIDENT: The Court will recess now.

*[A recess was taken.]*

SIR DAVID MAXWELL-FYFE: I want to ask you very few questions on this part of the case, Defendant. Do you remember you told the Tribunal that on the 21st of April, when you saw Hitler, that he had either read to you or handed you a copy of the minutes which appear there, taken by Schmudt, about the basis of the “Fall Grün” against Czechoslovakia?

THE PRESIDENT: Sir David, isn't this really a matter of argument rather than a matter for cross-examination? The witness says that insofar as the part he took in all these matters, it was military. The case of the Prosecution is that the part he took was political.

SIR DAVID MAXWELL-FYFE: My Lord, if I may say so, it is a very fair comment and received with greatest respect. The difficulty is, when a witness has said several times “it is political”—I

mean, "it is only military". I wanted to bring out the points that show it is political and I don't want to cross anything which the Tribunal had in mind.

THE PRESIDENT: Well, I think the Tribunal have all the documents before them upon which they can judge, really, unless you have new documents.

SIR DAVID MAXWELL-FYFE: My Lord, there are not; and, My Lord, I will of course, accede at once to what the Tribunal says. My Lord, I should like to point out one document.

THE PRESIDENT: Sir David, I think the Tribunal does feel that the cross-examination is apt to get a little bit too long and sometimes too detailed.

SIR DAVID MAXWELL-FYFE: If Your Lordship please, I am sorry if that has been done, but, My Lord, the witness was in examination-in-chief, I think, 2 full days and in examination by the other defense counsel for half a day, and so far the Prosecution have only spent just 4 hours. So I hope Your Lordship won't hold it too much against us. My Lord, the only document which I should like to—I shall not pursue the point in view of what Your Lordship has said—it is Page 31 of the document book. I only wanted you to have this in mind, because Your Lordship will remember that the witness said that the state of German preparations was such that he himself and the other generals did not think that a campaign against Czechoslovakia would succeed. Your Lordship will see that on that day General Halder, then Chief of Staff, said that the operation will definitely succeed and almost will be reached in the second day. My Lord, I only want to pass on that and I think it is only fair that the Tribunal should have that point in mind. I don't think it has been referred to before. I will leave that point, as Your Lordship has indicated, and I will leave the other points on this part of the case, which I intended to do. I only want to deal with a different point entirely and then I shall finish.

[Turning to the defendant.] Defendant, the document which I have now passed to you is a document which gives the account of a conference between Hitler and yourself on the 20th of October 1939 with regard to the future shape of Polish relations, and I want you to look at Paragraph 3, the second subparagraph. I want to put one interview to you that arose out of that. That paragraph says:

"The Polish intelligentsia must be prevented from forming a ruling class. The standard of living in the country is to remain low. We want only to draw labor forces from there."

Now, do you remember General Lahousen giving evidence? He said that Admiral Canaris had protested vehemently to you against, first of all, the projected shooting and extermination measures that

were being directed particularly against the Polish intelligentsia, nobility, and clergy, as well as elements that could be regarded as embodiments of the national resistance movement. According to General Lahousen, Canaris said:

"Some day the world will make the Armed Forces, under whose eyes these events have occurred, also responsible for these events."

Do you remember Admiral Canaris saying that to you or words to that effect?

KEITEL: I know only what General Lahousen testified here in court. I do not know anything about what Admiral Canaris said.

SIR DAVID MAXWELL-FYFE: Did Lahousen never give you any warning of any kind as to the fact that the Armed Forces might be held responsible for these actions that were being taken in Poland?

KEITEL: No. It was also my opinion that the Armed Forces would be made responsible, if such actions were taken without their approval and without their authorization. That was also the reason for the conference.

SIR DAVID MAXWELL-FYFE: And that was a point that did worry you very much; didn't it?

KEITEL: Yes, I was extremely worried and I had very serious discussions about it, but not at that particular time.

SIR DAVID MAXWELL-FYFE: And wouldn't it be fair to put it this way, that if you had known at the time all that you know now, you would have refused, even with all that you have told us, you would have refused to have anything to do with actions that produced concentration camps, mass murder, and misery to millions of people, or do you say that you still, knowing all that you know now, would have gone on with these actions?

KEITEL: No; I am convinced that if the German Armed Forces and their generals had known it, then they would have fought against these things.

SIR DAVID MAXWELL-FYFE: Thank you.

MR. THOMAS J. DODD (Executive Trial Counsel for the United States): If Your Honors please, I have just one question.

[Turning to the defendant.] A few days ago, on the morning of the 3rd of April, when you were on direct examination, we understood you to say that you had the feeling that you must accept responsibility for orders issued in your name, orders which you passed on, which were issued by Hitler; and on Friday afternoon, when Sir David was examining you, we understood you to say that

as an old professional soldier you, of course, understood the traditions and indeed the principles of that profession that oblige a soldier not to carry out any order which he recognizes to be criminal in character. Is that understanding on our part correct?

KEITEL: Yes, I understood that.

MR. DODD: So that it is fair to say to you that under the obligations of your oath as a professional soldier, you did acknowledge carrying out criminal orders?

KEITEL: One can hardly put it that way. What should be said is that the type of government we had at the time and the authority of the head of state permitted such legislative power that the executive organs were not conscious of carrying out illegal orders. Of course, I was also aware of the fact that deeds were committed which were incompatible with right and justice.

MR. DODD: I understand you to say you did, with knowledge, carry out and pass on criminal or illegal orders. Is that a fair statement?

KEITEL: I did not have any inner conviction of becoming criminal in doing so, since after all it was the head of the state who, as far as we were concerned, held all the legislative power. Consequently I did not consider that I was acting criminally.

MR. DODD: Well, I do not want to devote any more time to you except to say this, to suggest to you that I think your answer is not responsive.

You told us that some of these orders were violations of the existing international law. An order issued in that form and on that basis is a criminal order, is an illegal order, is it not?

KEITEL: Yes, that is correct.

MR. DODD: Well, when you carried them out, you were carrying out criminal orders in violation of one of the basic principles of your professional soldier's code, no matter by whom they were issued.

KEITEL: Yes.

THE PRESIDENT: Dr. Nelte, do you wish to re-examine?

DR. NELTE: Mr. President, I do not propose to put any further questions to the defendant regarding the actual facts involved in the case. It appears to me that after his frank statements, the objective facts have been clarified as much as is possible in this Trial.

Regarding the facts subjectively seen, it is necessary according to my conception, particularly with reference to the last question which has been asked by the American prosecutor, that certain supplementary statements be obtained.

[Turning to the defendant.] Once more, therefore, I am having the Canaris document shown to you, USSR-356, from which General Rudenko has presented to you your handwritten note and also the documents submitted by the British Prosecutor, D-762, 764, 766, 765, and 770.

According to statements made during the cross-examination your explanation regarding responsibilities appears to require a supplementary clarification. You have said that you passed on Hitler's orders in cognizance of their contents. And now I come back to Mr. Dodd's question and in light of the judgment to be passed on you, I must ask you, for it is of the greatest importance, how was it possible and how do you want to explain that these ruthless orders, in violation of the law of war, could be carried out by you or how, as it says in the note on the Canaris document, you could support them? You did have objections. You told us so. This is a matter that can be explained only by you, by yourself, since it is a personal affair and cannot be clarified with the help of documents, as such. A number of times you have told me, and now again you have emphasized it, that you desired to help us find a thorough and truthful explanation for everything.

Thus, I am asking you how was it possible and how do you explain that those orders and instructions were carried out and passed on by you and how is it that no effective resistance was met with?

KEITEL: About this clearing up, I realize that many orders and also notes which I wrote on documents that have been found and orders which I passed on, must seem incomprehensible to third parties, to outsiders, and particularly to foreigners.

To find an explanation for this, I must say that you had to know the Führer, that you have to know in what atmosphere I worked in, day and night, for years; you must not fail to consider just what the circumstances were, under which these events occurred. I have often testified here that I wanted to give expression to my scruples and objections, and that I did so. The Führer would then advance arguments which to him appeared decisive and he did so in his own, I must say, forceful and convincing way, stating the military and political necessities and making felt his concern for the welfare of his soldiers and their safety, as well as his concern about the future of our people. I must state that, because of that, but also because of the ever-increasing emergency, militarily speaking, in which we found ourselves, I convinced myself and often allowed myself to become convinced of the necessity and the rightness of such measures. So I would transmit the orders that were given, and promulgate them without letting myself be deterred by any possible effects they might have.



Perhaps this may be considered as weakness and perhaps I shall be accused of the same guilt. But at any rate, what I have told is the truth. During the examination by Sir David I myself admitted and acknowledged that I often had serious conflicts of conscience and that I often found myself in a position where I myself in some way or another was able to draw the consequences of these matters. But never did it enter my mind to revolt against the head of the state and the Supreme Commander of the Armed Forces or refuse him obedience. As far as I am concerned, and as a soldier, loyalty is sacred to me. I may be accused of having made mistakes, and also of having shown weakness towards the Führer, Adolf Hitler, but never can it be said that I was cowardly, dishonorable, or faithless.

This is what I had to say.

DR. NELTE: Mr. President, I have reached the end of my examination. I should like to ask you, if I may, only that the documents which have been offered to the Tribunal in the course of this examination, bearing the Numbers 1 and 2 in Document Book 2, named Documents Keitel-8 and Keitel-9, be admitted in evidence without the necessity of my reading any parts thereof. The Prosecution know the documents and they are agreeable.

THE PRESIDENT: Defendant, there is one question I should like to ask you. Are you suggesting that you ever put your protest or objections to the orders of Hitler in writing?

KEITEL: Once I handed him a protest in writing, yes. That I know for certain. In the other cases, and as far as I can recollect, the matters were discussed verbally.

THE PRESIDENT: Did you keep a copy of that protest?

KEITEL: I have nothing left, Mr. President, not a single piece of paper.

THE PRESIDENT: Did you keep a copy of the protest? I did not ask you whether you had a copy; I asked you whether you kept a copy. Did you make a copy?

KEITEL: I had a draft as well as the handwritten document which I also had given to him through the chief adjutant. I think I had the draft in my personal files, but now I no longer have it and I do not know where these files have gone. They could possibly have been in the hands of the chief of the Armed Forces central office, who dealt with personal matters in my office, or later on they may have got into the hands of the chief adjutant of the Führer, General Schmunt, I do not know. There, I think, the original of that document I sent at that time ought to be available.

THE PRESIDENT: And what was the occasion of the protest?

KEITEL: It was made in connection with another crisis in our relationship during which he had expressed his distrust, and in connection with the current controversies on basic matters of the conduct of the war.

THE PRESIDENT: But when?

KEITEL: I believe it was in 1940—1939-1940, in the winter of 1939-40.

THE PRESIDENT: And you cannot say more about it than that it was made on basic matters?

KEITEL: I clearly asked for permission to resign on account of the accusations made against me and for the reasons which I was quoting.

THE PRESIDENT: That is all. The defendant can return to his seat.

*[The defendant left the stand.]*

DR. NELTE: May I ask permission to submit the two documents to the Tribunal? I mentioned them before.

THE PRESIDENT: Yes, certainly. Are you going to call in any more witnesses?

DR. NELTE: I had asked the Tribunal to call to the stand the witness Dr. Lammers.

THE PRESIDENT: Very well.

DR. NELTE: Witness Dr. Lammers, please.

*[The witness Lammers took the stand.]*

THE PRESIDENT: Will you state your name in full.

HANS HEINRICH LAMMERS (Witness): Hans Heinrich Lammers.

THE PRESIDENT: Will you repeat this oath after me:

I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

*[The witness repeated the oath in German.]*

THE PRESIDENT: You may sit down if you wish.

DR. NELTE: Witness, I principally wished to question you on the OKW, its competencies, and the position held by the Defendant Field Marshal Keitel as Chief of the OKW. We have talked about the matter during our discussions, but since this will have been sufficiently clarified after the statements made by Göring and the defendant and statements yet to be made by other witnesses, and also to save time, I do not propose to ask you in general or in detail on this subject. But I would like you, as the Chief of the Reich Chancellery, to answer questions which others may not know as well

as you do—you, who had participated in some way or other when certain decrees, and particularly that of the 4 February 1938, were drafted. May I ask you, therefore, to tell me, first of all, what brought about the big reshuffle of 4 February 1938?

LAMMERS: The Führer informed me that the Minister of War, Von Blomberg, was going to leave his position and that on that occasion he wanted to make certain other changes of personnel in the German Government and that in particular the Foreign Minister Von Neurath was going to retire and that here, too, a change would take place and that, furthermore, in the High Command of the Army, certain changes were about to be made. Subsequently, the Führer gave me the order to draft a decree regarding the leadership of the Wehrmacht. I was to participate in this in collaboration with the Wehrmacht Department of the War Ministry. As a guiding principle the Führer gave me the following instructions:

“In the future I no longer want to have a Reich Minister for War; and in the future I no longer want a Commander-in-Chief of the Wehrmacht who stands between me as the Supreme Commander, and the Commanders-in-Chief of the branches of the Wehrmacht.”

Accordingly, the decree was drafted, in which, to start with, the High Command of the Armed Forces became a military staff which was to be under the direct orders of the Führer. The Führer desired that there should be no independent authority here, which would stand between him and the Commanders-in-Chief of the branches of the Wehrmacht. Consequently, the then-appointed Chief of the OKW, General of Artillery Keitel, had no direct power of command over the branches of the Wehrmacht. Such power of command was out of the question if only for reasons of authority.

THE PRESIDENT: Has this not been really covered by the Defendant Keitel himself? No question in cross-examination has been put to him to challenge any of his statements upon the organization of the OKW; therefore, it seems to the Tribunal it is not necessary at all.

DR. NELTE: Mr. President, I already told that to the witness in my introductory words, I asked the witness only to tell me what brought about the reshuffle of 4 February 1938 and therefore he had to talk a little about the decree of 4 February 1938. I shall try and make Dr. Lammers' examination as short as possible. I believe also that the circumstances surrounding the Chief of the OKW have been fully clarified, but it is, after all, a fundamental question. If a man of the standing of Dr. Lammers can confirm it, it would probably increase the value of the evidence.

THE PRESIDENT: If the Prosecution had put any questions in cross-examination suggesting that there was any inaccuracy in the evidence which the Defendant Keitel had given upon the subject, then, of course, it would be open to you and it would be necessary for you to call other evidence upon it; but, when the subject is not challenged in any shape or form, it is not necessary to confirm it.

DR. NELTE: In that case, Mr. President, I need not ask the witness any questions at all since the subject on which I was going to examine him was the position of the Defendant Keitel as Chief of the OKW, his position as a Minister, his functions as a so-called chairman of the Reich Defense Council, and his functions as a member of the Three Man College. In all these cases, no questions have been raised by the Prosecution.

THE PRESIDENT: Dr. Nelte, the Prosecution did raise the question as to whether the Defendant Keitel took part in any political action and upon that you may question him.

DR. NELTE: Thank you very much.

[Turning to the witness.] Dr. Lammers, what can you say from your personal knowledge, about the question as to whether the Defendant, Field Marshal Keitel, had to occupy himself with political matters on the strength of his position as Chief of the OKW, or did occupy himself with them?

LAMMERS: As Chief of the OKW, he had, in reality, nothing at all to do with political matters. The way I understand your question is that you want me to say whether Herr Keitel, in his capacity as Minister of War, did concern himself with political matters. I do not quite understand your question.

DR. NELTE: This has nothing to do with his position as the Chief of the OKW or Chief of Staff, nor has it anything to do with his functions in the Ministry of War. What I want you to testify to is—do you know whether the Defendant Keitel, during the time when he had held the position of Chief of the OKW, dealt with political questions, that is to say, primarily with foreign political questions?

LAMMERS: I cannot make any statement regarding the great political issues, particularly foreign political affairs, as far as Herr Keitel is concerned, since I, myself, had nothing to do with these questions.

DR. NELTE: All right, then. In that case I want to ask you a concrete question: You know that Field Marshal Keitel was present at receptions when President Hacha came, when there were meetings with other statesmen. In some cases you were probably also present. Can you say whether during such receptions, it was the function of Field Marshal Keitel to take part in the political discussions or not?

LAMMERS: As far as I know, Herr Keitel often took part in such discussions with foreign statesmen. I, myself, as a rule did not take part. You have mentioned President Hacha. It was an exception that I was there, for matters regarding the Protectorate were not regarded as foreign political matters by us. I hardly ever was present at foreign political discussions with competent men from abroad, at discussions of a political nature, and I cannot say, therefore, to what extent Herr Keitel did participate during such conferences. I assume though that he was frequently present during such conferences.

DR. NELTE: In other words, you cannot answer that question on the strength of your knowledge. In that case, I am asking you: In accordance with the wishes of Hitler, the author of the decree of 4 February 1938, with whom you have discussed its purposes, should the man who was to take over the position of Chief of the OKW have any political functions?

LAMMERS: In my opinion he was not to have any political functions as Chief of OKW, for he was immediately subordinate to the Führer.

DR. NELTE: Did it ever, at any time, become known to you, or did you ever get the impression that Field Marshal Keitel was a political general, in the sense that it was customary to call him a political general?

LAMMERS: I never had that impression.

DR. NELTE: Mr. President, I have no further questions to ask the witness since everything else he was to make statements on has already been clarified.

THE PRESIDENT: Dr. Nelte, the Tribunal thinks that you may have misunderstood what I said to you about whether you should ask any questions about the Defendant Keitel as a member of the Reich Defense Council. If this witness can give any evidence upon that point, you may question him upon it.

DR. NELTE: Witness, in the Reich Defense Law of 1938, you, as Chief of the Reich Chancellery, were appointed a permanent member of the Reich Defense Council. Do you know if this Reich Defense Law, including the Reich Defense Council, ever became effective?

LAMMERS: The Reich Defense Law was made but was never promulgated as such. Therefore in my opinion, it has never become a law. The contents of the Reich Defense Law were partially applied as, so to speak, secret instructions of the Führer. The Reich Defense Law provided for a Reich Defense Council. That Reich Defense Council, as such, as far as I know, never convened. I, at any rate, have never received an invitation to attend a meeting, and, in my

recollection, I have never taken part in any meeting of this Reich Defense Council.

Two meetings, however, were supposed to have taken place, as I have heard, which have been called meetings of the Reich Defense Council. But I believe that these meetings, because of the large number of people attending them—I think there were 60 or 80—were meetings called by the Delegate for the Four Year Plan in this capacity. I do remember having partaken in such meetings. Apart from that, after the Reich Defense Law had been formulated, I heard so little of it during the subsequent years that I myself did not remember that I had been appointed a permanent member of this Reich Defense Council. At any rate, in such meetings, if they were meetings of the Reich Defense Council, in which I had partaken, no matters directly concerned with the defense of the Reich were discussed.

DR. NELTE: Do you know anything about the tasks which the Reich Defense Council were supposed to have?

LAMMERS: I know no more about their tasks than was contained in the law, which was not published; and as far as I can recall, these were only general descriptions, very general, of the tasks to be performed, all pertaining to the defense of the Reich.

DR. NELTE: It has been stated by the Prosecution here that the Reich Defense Council was an instrument for the planning of aggressive war. At any rate, an instrument for aggressions and for rearmament. Is there anything you know as to whether the Reich Defense Council was directly or indirectly involved in undertaking or carrying out such tasks?

LAMMERS: Nothing at all is known to me about that.

DR. NELTE: I should like to put now a few questions to you regarding the Secret Cabinet Council of which, according to the law, you were supposed to be a member. Defendant Keitel was to have been a member of the Secret Cabinet Council, and it does, in fact, say so in that law. What can you tell us about that law?

LAMMERS: When Von Neurath resigned as Foreign Minister, the Führer wanted to give Von Neurath as much prominence as possible in the eyes of the world, and he ordered me to draw up a decree regarding a Secret Cabinet Council of which Herr Von Neurath was to be President, with the title President of the Secret Cabinet Council. Other members were, as far as I can recall, the Reich Foreign Minister; the Deputy of the Führer, Reich Minister Hess; Field Marshal Keitel; and I, myself. I think that is all.

But I gathered from statements made by the Führer that the creation of this council was purely a formal matter which was to

procure a special position for Herr Von Neurath in the eyes of the public. I was convinced that the Führer would never call a meeting of the Secret Cabinet Council. In fact, the Secret Cabinet Council has never actually met, not even for a constitutional meeting. It never received any task from the Führer through me; it merely existed on paper.

THE PRESIDENT: Witness, if it was a secret, how could it affect the public?

LAMMERS: Through the promotion of the Reich Minister Von Neurath it was to be shown to the public that there were no fundamental differences of opinion between the Führer and the Reich Foreign Minister Von Neurath justifying his resignation. It was to be demonstrated that all was well between the Führer and Von Neurath; that in fact, because of his valuable knowledge of foreign political matters, Herr Von Neurath had been given, so to say, a higher position in the foreign political field by being appointed President of the Secret Cabinet Council.

DR. NELTE: This, in other words, was a sort of camouflage for his resignation?

LAMMERS: Yes.

DR. NELTE: I have another question. Field Marshal Keitel, as Chief of the OKW, has been accused of having countersigned certain laws, and I am now asking you what was the significance of the fact that the Chief of the OKW countersigned the laws?

LAMMERS: Since he was exercising the authority of the Minister for War, he was obliged to countersign these laws. He assumed the responsibility, *vis-a-vis* the Führer, that the Armed Forces, and everything connected with the former Ministry of War were given proper consideration.

Keitel could only exercise his war ministerial authority by mandate of the Führer, as specified in the decree, and as a result he was obliged to ask the Führer whether he could countersign or not. His authority as Minister for War was limited, in comparison, with that of any other minister who simply applied his signature as an ordinary minister, whereas Field Marshal Keitel could only exercise his war ministerial authority by mandate of the Führer..

DR. NELTE: In other words, if I understand you correctly, you want to say that Field Marshal Keitel was not a Minister?

LAMMERS: He was not a Minister as becomes clear from the decree which expressly states that he only had the rank of a Minister.

DR. NELTE: Do you mean, in other words, that if he had been a Minister that you would not have had to give him full ranking of

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a Minister? But then, he was also a member of the Ministerial Council for the Defense of the Reich. Did not that make him a minister?

LAMMERS: Nothing was altered in his position in the Reich Government through that membership.

DR. NELTE: You mean no, don't you?

LAMMERS: Yes, I mean no.

DR. NELTE: Thank you very much.

THE PRESIDENT: The Tribunal will adjourn until 1400.

*[The Tribunal recessed until 1400 hours.]*



### *Afternoon Session*

THE PRESIDENT: Are there any of the other defendants' counsel who wish to ask questions of this witness?

DR. ALFRED SEIDL (Counsel for Defendants Hess and Frank): Witness, can you recall what Hitler said in the Cabinet meeting, regarding his political aims and the program of the new Government?

LAMMERS: Hitler delivered a very long speech, in the course of which the individual ministers also had a chance to speak. One of the details I remember particularly is that the Führer talked, first of all, about the removal of unemployment, something which would definitely have to be achieved. Secondly, he spoke about the fact that an economic revival of Germany would have to be provided for. And thirdly, he talked in detail about the fact that a revision of the Versailles Treaty would have to be effected, and that we would have to try to put an end to the defamation of Germany which was contained in the Versailles Treaty, and that one would have to strive to achieve equality of rights for the German Reich within the circle of nations.

All these statements of Hitler's were then written down in a special Government declaration. I also recollect that in that Government declaration the protection of positive Christianity was mentioned in particular. I cannot recall the special details. But these, I am convinced, are the main points concerned.

Nothing was discussed which would have required special secrecy. And what was discussed was, in the main, contained in the Government declaration which was published in the press.

DR. SEIDL: Did Hitler say anything at all, during this Cabinet meeting, about the fact that he was going to alter the system of government and that he wanted to govern dictatorially?

LAMMERS: Herr Hitler expressed his opinion to the effect that the present parliamentary system, prevailing up to that time in Germany, had been a failure.

THE PRESIDENT: You are speaking about a meeting. What was the date of the meeting you are referring to?

LAMMERS: It was the first Cabinet meeting which the Defense Counsel inquired about. It took place on 30 January 1933, on the day after the seizure of power. The Führer stated that the present governmental system had been a failure. Furthermore he said that the result of that failure had been that the Reich President was obliged, in a state of emergency, according to Article 48 of the Weimar Constitution, to govern by means of emergency decrees, and that the only possibility was to create a stable Reich Government,

a government which would be in power for many years. And further, how one could create such a government would be something which would have to be agreed upon first with the Reich President and the Reichstag.

DR. SEIDL: Witness, did Hitler say, during this Cabinet meeting, that he wanted to concede to the NSDAP a specially favored position of power?

LAMMERS: He said that the NSDAP, as the strongest party, would naturally have to have due influence in the German Government. He said nothing to the effect that he wanted to put an end to the other parties that still existed and were still represented in the Cabinet, the German Nationalists and the Stahlhelm group.

DR. SEIDL: Witness, did Hitler explain his foreign political aims during this first meeting and did he say, in particular, that Germany would definitely have to be freed from the shackles of the Versailles Treaty and would again have to take the place befitting her in the community of nations?

LAMMERS: I answered that question already in the affirmative before. Those were the foreign political aims, the complete revision of the Versailles Treaty.

DR. SEIDL: Did Hitler also mention at the time that for the achievement of these foreign political aims one would have to run the risk of another war, possibly even of a preventive war?

LAMMERS: As far as I know and as far as I remember, no mention was made of war, certainly not of a preventive war or an aggressive war.

DR. SEIDL: Witness, did Hitler, in the period following, in Cabinet sessions or during any other meetings of all or numerous ministers, present a comprehensive plan for the achievement of his foreign political aims?

LAMMERS: No, I knew of no comprehensive plan except the general points I have mentioned. Neither during that meeting nor during later meetings did Hitler elaborate a general plan. In my opinion, he never did discuss and describe in detail any comprehensive plans of a long-term character at all.

DR. SEIDL: Witness, what caused Hitler a) to appoint Hess Deputy to the Führer of the NSDAP and b) to make him a Reich minister?

LAMMERS: He appointed Hess Deputy to the Führer, I believe, because he, as Chancellor of the Reich, no longer wanted to attend to the business of the Party and had to have a responsible man for the technical leadership of the Party.

He appointed Hess Reich Minister in order to create a link between Party and State; to have a man in the Cabinet who was in a position to represent the wishes and views of the Party in the Cabinet. Perhaps he was thereby hoping to create a united front between Party and State, something which became a law later on.

DR. SEIDL: Witness, were the leading generals, a) before and b) after seizure of power, in contact with the Reich directorate and the Political Leadership Corps of the Party?

LAMMERS: Before the seizure of power, as far as I know, contact between the Party and the generals did not exist as such. There could only have been cases of personal contact between individual members of the Party and individual generals.

After the seizure of power I had the opportunity of being present when the Führer, at the beginning of February 1933, had the high-ranking generals, the commanders-in-chief, introduced to him, and I had the impression that the Führer did not know most of these men, for they were all introduced to him—I stood nearby—and it was my impression that he had known only a few of these men previously.

After the seizure of power, of course, the relations between the Party leaders and the high-ranking generals became closer—after the Party had gained a strong position in the State. But what I would like to say is that relations, general relations, between the Party, that is to say between the Reich directorate of the Party and the Political Leadership Corps of the Party on the one side, and the high-ranking generals and perhaps also the generals with lower rank, on the other side—that these relations never went beyond the purely formal, beyond so-called social relations which were based on duty requirements at chance meetings, on festive occasions and public demonstrations, *et cetera*. I feel that the general relations between the Reich Directorate and the Political Leadership Corps of the Party on the one side, and the generals on the other, were in no instance any closer than that.

DR. SEIDL: Witness, did the character of these relations change after Hitler became the Head of the State and Supreme Commander of the Armed Forces?

LAMMERS: As far as the high-ranking generals are concerned, I am of the opinion that in principle nothing changed, for the high-ranking generals regarded the Führer not as the leader of the Party but as the Head of the State, and they considered him the Supreme Commander of the Armed Forces. Consequently, they did not believe that they had to establish any particularly close relations with the Party.

DR. SEIDL: Witness, did joint meetings and conferences take place for the discussion of political aims between the Reich Government, the Reich Directorate of the Party, and the high-ranking generals?

LAMMERS: Such joint meetings or conferences are out of the question. They never took place. That would also have been impossible because of the large number of people involved.

DR. SEIDL: Witness, were members of the Reich Government, the Reich Directorate of the Party and the high-ranking generals in a position to present their views to Hitler with regard to important questions involving the welfare of the nation, particularly on questions which concerned war or peace?

LAMMERS: Jointly, these three groups, if I may say so, naturally could not voice an opinion at all, for they had no connection with each other in any way. But neither could any of these groups—the Reich Directorate of the Party, the Reich Government, and the generals—voice its opinion, in the first place because they were not informed at all about the Führer's political and economic aims. What attitude could they take? They were simply taken by surprise by the actual execution, by the accomplished facts, and any subsequent voicing of an opinion would have meant a "stab in the back" of the Führer's policy.

DR. SEIDL: Witness, then a general political plan on Hitler's part—in which these most important groups were active participants—did not exist at all, and therefore there could be no talk of a conspiracy?

LAMMERS: I know of no such general plan, but I can assure you of one thing, that the large majority, the large majority of ministers never knew anything of any such general plan. Just how far the Führer informed individual persons of such plan, I do not know. I was not present on such occasions. The Führer may have discussed some sort of plans with one person or another, perhaps with a member of the Party of the Reich Directorate or the generals; but just what was discussed on such occasions I do not know. And of course I cannot say whether in such cases these gentlemen agreed or disagreed with the Führer. I also do not know whether shortly before the execution of any large-scale political plans, such as for instance the march into Czechoslovakia or something like that, whether, shortly before, they could still advise the Führer as to whether they agreed or were opposed, or whether they merely received an order which they had to execute.

DR. SEIDL: Witness, if I understand you correctly, then you obviously want to say that all decisions of any magnitude were made by Hitler alone?

LAMMERS: The large-scale political decisions were certainly made by him alone, at most with some few persons being consulted and participating, but never with the Reich Government participating, for the Reich Government—if I may go into detail about this—it was when we left the League of Nations that Hitler for the last time informed the Reich Government before taking an action. Then followed as a large, important action, the march into the Rhineland.

The Cabinet was informed that we were going to withdraw from the League of Nations; it was still informed beforehand.

No one was informed of the march into the Rhineland; the Führer informed the Reich Cabinet only after the march had taken place. On the occasions of the march into Austria, the march into the Sudetenland, the march into Prague, the outbreak of the Polish war, the beginning of the other campaigns against Norway, France, Russia, and so forth, the Reich Government were consulted by the Führer neither beforehand, nor were they informed subsequently; and consequently there were certain ill-feelings among all the ministers because they were in no instance informed in advance of these large-scale plans which had certain implications for the non-military departments as well, and because the Reich Government did not learn until later of the accomplished facts.

Thus, to this extent I can say that all these decisions were made by the Führer alone; and to what extent he consulted persons individually I do not know. However, on the whole, the large majority of the ministers were not informed of all these actions; they just had general information such as any newspaper reader and any radio listener has; or they, as I for instance, sometimes heard of such a matter a few hours before, when it was made known to the press. There was no questioning of the Führer or any information from him beforehand.

DR. SEIDL: Please tell me now just how it actually came about, that the entire governmental power was thus transferred to the Führer?

LAMMERS: That transfer was accomplished, I might say, by way of a gradually developing state customary law.

DR. SEIDL: Slowly, please.

LAMMERS: First of all, the Führer and the Reich Government had been given, by the well-known Enabling Act of the Reichstag, the power to alter the Constitution. The Reich Government made use of this power in their actual legislation and, of course, use was also made of it by way of passive endurance and by creating a state customary law as was actually recognized in all countries. Thus in the course of the first years, and also during the later years, it came

about quite naturally by way of a state customary law, that the Führer acted more independently than would actually have been possible according to the Weimar Constitution. From the beginning important political questions were all removed by the Führer from the jurisdiction of the Cabinet.

Even in 1933 and 1934, when Hindenburg was still alive, the Führer did not wish general political questions to be raised in the Cabinet by any minister. I repeatedly had to have various ministers informed that they were to refrain from bringing up questions which did not directly affect their department for discussion in the Cabinet.

For instance, I had to pass on such information to those gentlemen who wanted to discuss church policy. I had been forbidden to put any general political questions on the agenda of a Cabinet meeting. If, in spite of that, a minister raised a political question during a meeting of the Cabinet, then the Führer generally interposed and silenced the minister concerned, or referred him to a private discussion. Things developed in this way in the course of time.

After Von Hindenburg's death, when the Führer became the Head of State, such debates in the Cabinet were stopped altogether. Nothing of this sort could be debated any more. The ministers were not allowed to feel that they were political ministers. I had to inform various gentlemen repeatedly, by order of the Führer, that they were requested to refrain from voicing their opinions in regard to such questions during Cabinet meetings.

Then came the time, which I have already described, during which the large-scale actions took place and there were no more Cabinet meetings. In this connection the Führer acted alone, and all declarations which were made on behalf of the Reich Government were made by him alone, acting on his own and without previous consultation with the Cabinet. I must admit that the Cabinet very often complained about that but could not prevail against the Führer.

Thus gradually the governmental power—if I interpret "Regierung" according to the conception of "government" laid down in Anglo-Saxon law—then after 1936 there was no longer any complete Reich Government at all consisting of the Reich Chancellor and the Reich Ministers, that is, a collective, unified body. The Führer was the Reich Government, and this power had slipped into his hands—and one will naturally say that it should not have slipped into his hands. All I can say to this, is that it may have been wrong, it may have been stupid, but it was not a crime. It was a political development such as has happened repeatedly in history. I might recall the fact that in ancient Rome, where the senate had the power and that there...

THE PRESIDENT: The Tribunal really does not want to hear a history of ancient Rome.

LAMMERS: Very well.

DR. SEIDL: Witness, you have described the development of the transfer of governmental powers into Hitler's hands...

LAMMERS: Yes, but not completely.

DR. SEIDL: In that case, please continue with your account. But all descriptions...

THE PRESIDENT: We have had quite enough. We quite understand that he is saying that Hitler took over all powers and would not listen to any debate at all. It is perfectly clear that he said so.

DR. SEIDL: Yes.

Witness, will you please tell me one more thing about the last question in this connection? Please tell me whether you as Reich Minister and Chief of the Reich Chancellery considered legal the development you have just described.

LAMMERS: I regarded this development, in the first place, from the point of view of constitutional law. I have discussed these questions repeatedly with Hitler, and I consider this development perfectly legal and, if it is desired, I can explain my reasons in detail.

In particular, I considered this development legal in view of the well-known Enabling Act and later laws which gave the Reich Government plenipotentiary powers and because of which the Reich Government, in turn, were in a position to delegate some of these powers to the Führer and to transfer this power. In that manner that which the Reich Government, as soon...

THE PRESIDENT: Dr. Seidl, the Tribunal is not really interested in whether or not it was legal. What the Tribunal is interested in is whether crimes against other nations were committed. We certainly do not want to hear this in such great detail.

DR. SEIDL: Yes, but the main point of the Indictment is Count One of the Indictment; and that is concerned with the Conspiracy charged by the Indictment.

THE PRESIDENT: The main point in the Indictment is not whether it was in accordance with German law that Hitler should take over the powers of his Government. There was no such point made in the Indictment.

DR. SEIDL: Witness, I now turn to some questions which concern the Defendant Dr. Frank. Since when have you known Dr. Frank? What were his activities up to the outbreak of the war?

LAMMERS: I became acquainted with Herr Frank in the course of the year 1932. If I understand you rightly, you want to hear about his activities only from the outbreak of the war?

DR. SEIDL: Up to the outbreak of the war.

LAMMERS: He was Chief of the Legal Division of the Party, then Chief of the National Socialist Lawyers' Association (Juristenbund) which later on became the so-called Lawyers' League (Rechtswahrerbund). Then he became a member of the Reichstag, and at the time of the seizure of power in 1933, he became Minister of Justice in Bavaria. At the same time he became Reich Commissioner for Legal Reforms.

Later on—and I do not remember the exact year—he became Reich Minister without Portfolio; and he was the President of the Academy of German Law. He finally became Governor General.

THE PRESIDENT: We have had the Defendant Frank's posts proved to us already, I should think, probably more than once. We do not require them from Dr. Lammers.

DR. SEIDL: I can put another question to the witness.

Witness, what was the relationship between Frank and Hitler?

LAMMERS: The relationship between the two was, at the beginning, I should like to say, good and proper, but not particularly close. At any rate, during the whole time he did not belong to those who could be called the closest advisers of the Führer.

DR. SEIDL: What was Frank's attitude towards the "Police State" and the question of concentration camps?

LAMMERS: Frank repeatedly made speeches in public in which he stood up for the constitutional state, for right and law, by attacking the "Police State" and in which—although not in very strong terms—he always took a stand against internment in concentration camps, because such internment was without a legal basis. These speeches made by Frank were frequently the cause of severe disapproval on the part of Hitler, so that in the end the Führer instructed me to forbid his making speeches and he was forbidden to publish the printed version of these speeches. Finally, Frank's activity in standing up for the constitutional state resulted in his being removed from his office as the Reich Chief of the Legal Division of the Party.

DR. SEIDL: Was he not dismissed from his position as President of the Academy of German Law for these reasons?

LAMMERS: Yes, that happened at the same time—and also from his position as Chief of the Lawyers' League.

DR. SEIDL: Another question: Did Dr. Frank as Governor General have considerable power, or was it not rather the case that his power in many respects was greatly infringed upon?

LAMMERS: One can certainly say that in many respects his power was infringed upon.



There are a number of reasons—first of all, as is self-evident, the Armed Forces. But they bothered him least of all, for in the occupied territories, the Reich commissioners were never members of the High Command of the Armed Forces. That was always separate.

Then Göring, as Delegate for the Four Year Plan, had comprehensive powers to issue orders to both the Party and the State in all occupied territories, therefore also in the Government General, and thus could give orders to the Governor General and could, when it was necessary in the interests of the whole, countermand and annul the latter's decrees.

Thirdly, Frank's powers as Governor General were considerably limited through the police, since Himmler as Chief of the German Police had direct police powers which he was, to be sure, to cooperate with those of the Governor General but which he did not always do. The Governor General suffered a further loss of power through the fact that Himmler was Reich Commissioner for the Preservation of German Nationality and as such could undertake resettlements and did do so without consulting Governor General Frank in any way.

Then, there were certain infringements in favor of the Plenipotentiary for the Allocation of Labor, but in my opinion the infringement of power in this field was very slight, for Gauleiter Sauckel always, where possible, came to an agreement with the local offices beforehand.

Finally there were powers reserved for Reich Minister Speer in the field of armament and technology. There were still other powers reserved for the postal service, the railroads, *et cetera*. But in the main, these are the gaps, as you call them, Dr. Seidl, in Frank's power.

DR. SEIDL: What, according to your observations, was Frank's basic attitude towards the Polish and Ukrainian peoples, and what was the policy he tried to carry through?

LAMMERS: In my opinion Frank always tried to pursue a policy of moderation and to create an atmosphere of friendship towards Germany in Poland. To be sure, he very often was unable to achieve his aim, especially because of the fact that the powers of the police and Himmler's powers were too great in the field of resettlement, so that his measures and his intentions suffered set-backs. He found it difficult to achieve his aims.

DR. SEIDL: Did Dr. Frank occupy himself with Germanization aims or did he rather, whenever he could, oppose the policy of resettlement pursued by Himmler as Reich Commissioner for the Preservation of German Nationality?

LAMMERS: I should not have thought that Frank would be so foolish as to have germanizing intentions or to want to make Germans of Poles. He probably tried to win the people of German origin in Poland for the cause of Germanism. He had many difficulties with regard to the resettlements, since he was not consulted beforehand and since, by way of resettlement, people were simply shoved into the Government General. In that respect he and I agreed entirely. I have repeatedly told the Führer that these mass resettlements could not take place, all at once, without the agreement of the Governor General, and that the Governor General could not govern if he did not know about these resettlement measures in advance and if he could not even exert an influence in connection with these measures.

DR. SEIDL: Witness, you stated earlier that the entire Security Police and the SD in the Government General were directly under Himmler or the Higher SS and Police Chief. Did Governor General Frank not try to protest against the policy of force employed by these two men and to relieve the situation?

LAMMERS: On this point he addressed repeated complaints to me, so that I might take them to the Führer, which, however, I could do only in part. In one point, however, we did want to help him. In the Government General there had been established a Secretariat of State for the security system. This was under Krüger, then Higher SS and Police Chief. This, however, functioned for only 4 to 6 weeks and then differences of opinion in this field broke out once more. The State Secretary for Security, Krüger, stated, "I receive my orders from Himmler." If the Governor General complained about that, then Himmler said, "These are all unimportant matters. I certainly must be able to rule on them directly." The Governor General said, "But for me they are not unimportant; even those things are important to me."

The channels of command and the co-operation with the Governor General were not being observed, and it is therefore perfectly understandable that Herr Frank had a very difficult position with respect to the police system.

DR. SEIDL: Is it correct that the Governor General repeatedly, both orally and in writing, declared his intention of resigning and the reasons for it?

LAMMERS: He repeatedly offered his resignation, because of these sharp conflicts which he had, with Himmler in particular, and because Hitler usually decided that he was in the wrong and Himmler in the right. Many statements of his intention or desire to resign were brought to me, some of which I was not even allowed to submit to the Führer. But I informed the Führer of the Governor

General's intentions of resigning and the Führer several times refused Frank's offer to resign.

DR. SEIDL: Do you know that Reichsführer SS Himmler was working towards having Frank removed?

LAMMERS: Reichsführer Himmler personally was indubitably an opponent of Frank's. There is cause for me to assume from various disapproving statements made by Himmler with regard to Frank that Himmler would have liked it very much if Frank had been removed from his position; and Reichsleiter Bormann who also was not very well disposed to Frank's personality, would have liked it also.

DR. SEIDL: Who in the Government General had jurisdiction over the concentration camps and was the competent official as far as their establishment and administration were concerned?

LAMMERS: The concentration camps were under Himmler, and organs and departments under Himmler's control were responsible for the administration and organization. There was an economic department, I believe, attached to the SS, which was responsible for administration; but concentration camps as such were under Himmler's jurisdiction.

DR. SEIDL: Who was responsible for all questions connected with the so-called Jewish policy in the Government General?

LAMMERS: In occupied territories the Jewish policy, I might say, in its larger implications was handled by Himmler, who directed it. But, of course, the Governor General was also concerned with matters in the field of Jewish policy or with measures against the Jews, for instance, the combating of spotted fever, and, I think, the marking by means of a visible sign. All personal measures were proposed to the Governor General by the Police. But the main policy in Jewish questions, as I learned afterwards, was handled entirely alone by Himmler, who had been given these powers by the Führer.

DR. SEIDL: Is it true that the Governor General, as early as 1940, continuously raised complaints regarding the activities of the Higher SS and Police Chief Krüger?

LAMMERS: I can confirm that. That happened several times. In particular these complaints were made because the SS and Police courts were assuming powers in the Government General which they did not actually have. Consequently, they deprived the Governor General, the only authority competent in this respect, of the administration of justice. There were also shootings of hostages. He repeatedly complained about that. I want to state that all complaints were addressed to me—there were no complaints to me but they were merely always directed to me—so that I could submit them to the Führer.

DR. SEIDL: Is it correct that the Governor General continuously made objections about the extensive claim made by the Reich on the Government General, particularly in reference to grain deliveries?

LAMMERS: He had often raised objections but the demands which were put to him were even increased. He did, for the most part, fulfill them, which must have been extremely hard for him.

DR. SEIDL: Do you know that the Governor General protested against the removal of art treasures by Himmler's organization?

LAMMERS: Yes; I have only a very faint recollection of that. It is possible that he also complained about the removal of art treasures, but I cannot remember any details in that connection.

DR. SEIDL: And now the last question. Is it true that the Governor General, in many documents, from as early as 1940 on, made proposals to the Führer regarding the improvement of living conditions of the population in the Government General and that the Führer only very much later acknowledged that the high policy which had been advocated by Frank from the very beginning was correct?

LAMMERS: Herr Frank had often objected to a policy of exploitation and pronounced himself in favor of a policy of reconstruction, in cultural matters as well. He had suggested, for instance, that Polish advisory committees be assigned to the authorities under the Governor General and to the district chiefs, and so forth; that was refused. He spoke in favor of the creation of high schools, theological seminaries, and similar cultural aims, all of which were rejected.

On one occasion he had submitted a long memorandum. This referred to a Polish organization which called itself "The Plough and the Sword." It had offered to co-operate with the Germans, and Frank submitted detailed proposals in a long memorandum, saying that these Poles could be won over to co-operate only if they were met on proper terms. All these suggestions, coming from Frank, were turned down by Hitler. It is not correct for you to say, Dr. Seidl, that it was not until the last moment that the Führer agreed to these suggestions; all I can say is that they were all turned down without exception.

DR. SEIDL: I have no further questions.

DR. ALFRED THOMA (Counsel for Defendant Rosenberg): By a decree of 17 July 1941 the Defendant Rosenberg was appointed Reich Minister for the Occupied Eastern Territories. Would you please tell the Tribunal very briefly by means of what decrees his authority in the East was limited?

LAMMERS: I can do that very briefly by repeating what I said before. The same limitations which applied to the Governor General

also apply to him—these limitations which I have just listed; but I have to add one thing more to that.

The position of Reich Minister Rosenberg was made particularly difficult through the fact that the difference of opinion which existed between him and Minister Goebbels in the field of propaganda was especially detrimental for him. For in the Führer's opinion Rosenberg was to decide on the Eastern policy and Goebbels was to decide on the propaganda, and these two things could not always be coordinated. There were strong differences of opinion between Rosenberg and Goebbels which could be settled only after lengthy negotiations. But the practical success was always slight, because the difference of opinion, which had scarcely been settled, arose again without delay in the next few weeks. There was also another limitation which is different from the case of the Government General, that is, that Rosenberg had two Reich commissioners for the Occupied Eastern Territories, Reich Commissioner Lohse and Reich Commissioner Koch.

DR. THOMA: I am coming to that later.

Can you remember that before the 17 July 1941 decree there had been a conference with the Führer, on the day before, on 16 July 1941, during which, right from the beginning, Rosenberg complained that his ministry was to have no police powers and that all police powers were to be transferred to Himmler?

LAMMERS: Herr Rosenberg was, of course, not quite in agreement with the vesting of police powers in Himmler. He did object to that but without success. Police matters in other occupied territories had been ruled upon in the same way as in this case. The Führer would not depart from his views.

DR. THOMA: In the general instructions to the Reich commissioners there is a passage where it says that the Higher SS and Police Chief is directly subordinate to the Reich commissioner himself. Did this mean that the Police Chief could also give orders to the Reich commissioner in technical matters?

LAMMERS: Normally, no; Himmler had reserved technical instructions for himself. The SS and Police Chief was instructed to get in touch with the Reich commissioner and, of course, to take into consideration the latter's political instructions, but not the technical ones.

DR. THOMA: Not the technical ones? Please tell the Tribunal, but also quite briefly, what Rosenberg's political concepts were, from the beginning until the end, with reference to the treatment of the Eastern peoples.

LAMMERS: In my opinion he always wanted to pursue a moderate policy. Beyond a doubt he was opposed to a policy of

extermination and a policy of deportation, as was often preached. He made efforts to create order in the field of agriculture by means of his agrarian policy, likewise to create order in the field of education, church matters, universities, schools, and so forth. But he had little success, since one of the two Reich commissioners, namely Koch, in the Ukraine, opposed Rosenberg's measures, or rather simply disregarded Rosenberg's orders in respect to these matters.

DR. THOMA: I am thinking about the large political conceptions. Did he ever mention to you that he had the idea of leading the Eastern peoples to a certain autonomy and of allowing them such an autonomy?

LAMMERS: Yes, I can answer that in the affirmative.

DR. THOMA: Did he also mention to you that he intended that sovereign right should be extended to the Occupied Eastern Territories?

LAMMERS: Whether he said it in just that form, that I cannot recollect. At any rate he was in favor of establishing a certain independence for the Eastern peoples.

DR. THOMA: That is to say autonomy. And was it for this reason that he was so deeply interested in tending to the cultural life of these Eastern peoples?

LAMMERS: Yes. He was particularly interested in that. I know that because he also took an interest in the school system, the church, and the universities.

DR. THOMA: Was that possibly the cause of the conflict which he especially had with Reich Commissioner Koch?

LAMMERS: That and many other things. Koch was above all a strong opponent of the agrarian policy. That agrarian policy which Rosenberg considered especially favorable in the interest of his aims was sabotaged by Koch.

DR. THOMA: Can you mention any other fields in which Koch made difficulties for the Minister for the Eastern Territories?

LAMMERS: I cannot at the moment recollect any.

DR. THOMA: Do you know that there was a final row between the two when you were given the order, in collaboration with Bormann, to conduct negotiations between the two, and that Rosenberg refused and demanded that the matter be brought before the Führer?

LAMMERS: The differences of opinion between Rosenberg and Koch were very numerous. They filled volumes and volumes of records. The Führer had given the order that Bormann and I should investigate these matters. Many weeks of investigation ensued; and after the investigation I must say there was never a decision made

by the Führer. The Führer always postponed making a decision on these matters. On one occasion—perhaps that is the case which you, Dr. Thoma, are thinking of—the differences of opinion were again particularly sharp. The Führer then sent for Rosenberg and Koch, and instead of settling these differences of opinion, again no agreement was reached. Instead of a real decision, the compromise was made that these two gentlemen should meet once every month and co-operate. That was naturally, in the first place, an unbearable situation for Rosenberg, that he, as the minister in charge, should in every instance have to come to an agreement with the Reich commissioner subordinate to him; in the second place, it could hardly be carried out in practice. Firstly, the two gentlemen met no more than once or twice at most, and then when they did meet no agreement could be reached, and in the long run the Führer thought that Koch was in the right.

DR. THOMA: How could it be seen that Koch was considered right?

LAMMERS: Because the Führer reached no decision in regard to the complaints made by Rosenberg which, in my opinion, were justified. Thus the things accomplished by Koch remained.

DR. THOMA: Defendant Rosenberg says that the result was that Hitler gave him the order to confine himself in the administration of the Eastern territories to the most basic lines. Is that right?

LAMMERS: That was approximately the Führer's order. Both had agreed to come to a mutual understanding on the matter about which the Führer had misgivings.

DR. THOMA: What form did Rosenberg's relationship to the Führer take and when was Rosenberg's last report to the Führer?

LAMMERS: As far as I know, Rosenberg visited the Führer at the end of 1943 for the last time; and even before that he had always had considerable difficulties in getting to see the Führer. He was not very often successful.

DR. THOMA: Did this tense situation have the result that Rosenberg offered his resignation in the autumn of 1940?

LAMMERS: Yes, it was not actually an application for resignation, since the Führer had prohibited such applications, but he did say that if he could no longer conduct affairs to the Führer's satisfaction, he would like to be removed from office, thus, in the end, it amounted to an application for resignation.

DR. THOMA: Can you tell the Tribunal to what extent Rosenberg had influence and popularity among the population in the Occupied Eastern Territories? Is it correct, particularly, that a number of church leaders in the Occupied Eastern Territories sent telegrams

of thanks to him because of his tolerant attitude and because he allowed them to practice their religion freely?

LAMMERS: I know of that only superficially, from personal statements made to me by Rosenberg. He may have once told me something like that.

DR. THOMA: I have another question. It has repeatedly come to light during this Trial that Hitler's military entourage considered him a military genius. What was the situation in the administrative sphere? Hitler was above all the supreme legislator, the supreme chief of Government and Head of State. Did his administrative entourage encourage him in the belief that all his decisions were correct and that he was doing something extraordinary, or who did strengthen him in this belief?

LAMMERS: In this sphere, too, the Führer had an extraordinarily quick power of perception and almost always a correct evaluation of affairs. He was in a position to make frequent use of the large-scale policy which he alone had to determine for legislation and administration. It was then the task of the gentlemen who were to carry this out; above all, the ministers—I, too, to a certain extent—to shape into an appropriate form those suggestions and basic thoughts which he had formulated. If any objections did arise in this connection, the Führer was for the most part willing to listen to them, as long as they did not touch the principle of the matter; he was thus ready to listen to questions of severity, mitigation, or greater stringency, if necessary, or to questions of formulation and construction, but not if a basic tendency was being attacked. Then one had great difficulties with him.

DR. THOMA: And as far as individual problems were concerned, did he personally make the pertinent decisions about everything, or was he hampered in any way by his purpose, by certain aims which he had in mind?

LAMMERS: Very little was reported to him. Normally, in the last years I made official reports every 6 or 8 weeks; in other words six or eight times a year or perhaps, at the most, 10 times. On these occasions, problems could not be discussed. Generally speaking, the Führer left the administration to his ministers...

THE PRESIDENT: We have heard it over and over again about Hitler.

DR. THOMA: I have only one more question. Did you know anything regarding the fact that Hitler had decided to solve the Jewish question by the final solution, that is, by the annihilation of the Jews?

LAMMERS: Yes, I know a great deal about that. The final solution of the Jewish question became known to me for the first time



in 1942. That is when I heard that the Führer supposedly, through Göring, had given an order to the SS Obergruppenführer Heydrich to achieve a solution of the Jewish question. I did not know the exact contents of that order and consequently, since this did not come within my jurisdiction, at the beginning I took a negative attitude, but then as I wanted to know something I, of course, had to contact Himmler. I asked him what was really meant by the idea of the final solution of the Jewish question. Himmler replied that he had received the order from the Führer to bring about the final solution of the Jewish problem—or rather Heydrich and his successor had that order—and that the main point of the order was that the Jews were to be evacuated from Germany. With that statement I was satisfied for the time and waited for further developments, since I assumed that I would now in some way—I really had no jurisdiction here—I would obtain some information from Heydrich or his successor, Kaltenbrunner.

Since nothing did come I wanted to inform myself about this, and back in 1942 I announced a report to the Führer, whereupon the Führer told me that it was true that he had given Himmler the order for evacuation but that he did not want any further discussion about this Jewish question during the war. In the meantime or shortly afterwards—this was already at the beginning of 1943—the RSHA sent out invitations to attend a meeting on the subject, "Final Solution of the Jewish Question." I had previously sent out an order to my officials that I was not defining my attitude to this matter, since I wanted to present it to the Führer. I merely ordered that, if invitations to a meeting were sent out, one of my officials should attend as a so-called "listening post."

A meeting actually did take place afterwards to discuss this question, but without results. Minutes were taken and the various departments were supposed to express their attitude. When I received these minutes I found that they contained nothing vital. For a second time I forbade taking a definite attitude. I myself refused to take a stand and I remember it very well indeed, because I received a letter which, first of all, was signed by some unimportant man who, as far as I was concerned, had no right to sign. He asked me why I had not yet taken a stand. Secondly, the tone of the inquiry was very unfriendly; he said that everybody had expressed an opinion except me. I ordered that the reply be made that I refused to define my views since I wished to discuss the matter with the Führer first.

In the meantime I once more turned to Herr Himmler. He was of the opinion that it was necessary to discuss this question since a number of problems would have to be solved, particularly since the intention of achieving a final solution of the Jewish question would probably extend to persons of mixed blood, first grade, and

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would also extend to the so-called "privileged" marriages, that is to say, marriages where only one party was Aryan whereas the other party was Jewish. The Führer stated once more that he did not wish to have a report on it but that he had no objections to consultation on these problems. That some evacuations had taken place in the meantime had become known to me. At that time, at any rate, not the slightest thing was known about the killing of Jews; if crass individual cases came up, I always addressed myself to Himmler and he was always very willing to settle these individual cases.

Finally, however, in 1943, rumors cropped up that Jews were being killed. I had no jurisdiction in this field; it was merely that I occasionally received complaints and on the basis of these complaints I investigated the rumors. But, as far as I could tell, at any rate, these rumors always proved to be only rumors. Every one said he had heard it from somebody else and nobody wanted to make a definite statement. I am, in fact, of the opinion that these rumors were based mostly on foreign broadcasts and that the people just did not want to say from where they had the information.

That caused me once more to undertake an investigation of this matter. First of all, since I, for my part, could not initiate investigations of matters under Himmler's jurisdiction, I addressed myself to Himmler once again. Himmler denied any legal killings and told me, with reference to the order from the Führer, that it was his duty to evacuate the Jews and that during such evacuations, which also involved old and sick people, of course there were cases of death, there were accidents, there were attacks by enemy aircraft. He added too, that there were revolts, which of course he had to suppress severely and with bloodshed, as a warning. For the rest, he said that these people were being accommodated in camps in the East. He brought out a lot of pictures and albums and showed me the work that was being done in these camps by the Jews and how they worked for the war needs, the shoemakers shops, tailors shops, and so forth. He told me:

"This is the order of the Führer; if you believe that you have to take action against it then tell the Führer and tell me the names of the people who have made these reports to you."

Of course, I could not tell him the names, first of all because they did not want to be named, and secondly, they only knew these things from hearsay, so as I said, I could not have given him any definite material at all.

Nevertheless, I once again reported this matter to the Führer, and on this occasion he gave me exactly the same reply which I had been given by Himmler. He said, "I shall later on decide where

these Jews will be taken and in the meantime they are being cared for there."

Then he said the same thing Himmler had said, which gave me the impression that Himmler had told the Führer that Lammers would come and probably report to him something about this.

But that final solution of the Jewish problem was nevertheless in my portfolio and I was determined to bring it up once again with the Führer. I succeeded in doing so on the occasion of some particularly crass cases in connection with this question, cases which were such that the Führer let me talk to him about it. By way of example I should mention the entire case.

If a Jew was married to a German woman then he was considered "privileged," that is to say, he was not evacuated. But if the wife had died . .

THE PRESIDENT: One moment, please . . .

DR. THOMA: Mr. President, I myself should like to ask the witness to speak more briefly. But I ask that this particular question be admitted. In my opinion the witness is trying to describe how this entire final solution of the Jewish problem was carried out in secret and with deception being practiced on Hitler's entire entourage, and that is why I ask that the witness be allowed to finish his statement since this is a very decisive point in the discussion.

[Turning to the witness.] But, Witness, please be quite brief. I am now putting this question to you: Did Himmler ever tell you that the final solution of the Jewish problem would take place through the extermination of the Jews?

LAMMERS: That was never mentioned. He talked only about evacuation.

DR. THOMA: He talked only about evacuation?

LAMMERS: Yes, only about evacuation.

DR. THOMA: When did you hear that these 5 million Jews had been exterminated?

LAMMERS: I heard of that here a while ago.

DR. THOMA: In other words the matter was completely secret and only very few persons knew of it?

LAMMERS: I assume that Himmler arranged it so that no one learned anything about it and that he formed his Kommandos in such a way that nobody knew anything about them. Of course, there must be a large number of people who must have known something about it.

DR. THOMA: Can you tell me what people must have known something about it, apart from those who actually carried out these

exterminations? Who, apart from those people, must have known something about it?

LAMMERS: Well, to start with, Himmler must have passed his order on to other people; and there must have been certain leading officials, and these leading officials must, of course, have had other leading officials subordinate to them who took charge of the Kommandos and who kept everything completely secret.

DR. THOMA: No further questions.

THE PRESIDENT: We will adjourn now.

*[A recess was taken.]*

DR. OTTO PANNENBECKER (Counsel for Defendant Frick): Witness, you have already talked about a number of questions which are also of importance for the defense of Defendant Frick, since he was a member of the Reich Cabinet. Can you tell me on the strength of what position, or what position it was, that you are enabled to give these answers? I repeat, can you tell me what your position was within the Reich Cabinet which enables you to answer these questions?

LAMMERS: You mean my own?

DR. PANNENBECKER: Yes.

LAMMERS: I was State Secretary in the Reich Chancellery and I was the intermediary between the Führer and the Reich ministers, with two exceptions: the Führer either had direct communication with these gentlemen or the men in question had a way prescribed to approach the Führer other than through me. There were a number of things which did not go through my hands, but which the ministers submitted to the Führer directly. These were all matters of high policy, particularly of high foreign policy. Only in 1937, on the occasion of certain changes in the Cabinet, did I receive the title "Reich Minister," but my tasks did not change. In particular, I also had no departments.

DR. PANNENBECKER: Can you tell me when the very last meeting of the Reich Cabinet took place?

LAMMERS: The Reich Cabinet met for the last time in November 1937. To be sure, in 1938, at the beginning of February, there was one more so-called "information conference" of the ministers, during which the Führer announced the change which had been made in the Cabinet involving Herr Von Blomberg and Herr Von Neurath. The last Cabinet meeting in which actual consultation took place, namely in regard to the draft of a penal code, took place in November 1937.

DR. PANNENBECKER: Can you tell me something about any attempts after that date to get the ministers together?

LAMMERS: After that date I continuously attempted to effect a concentration of the Reich Cabinet, a reactivation, I might say. This was continuously refused by the Führer. I had even prepared a draft, a draft for a decree according to which ministers should at least come together to consult with each other once or twice a month under the chairmanship of Reich Marshal Göring, or, if he were prevented from attending, with me as acting chairman. The ministers were to come together and hear informal reports. That was turned down by the Führer. Nevertheless, the ministers had an urgent desire to meet. My next suggestion was that I invite the ministers once or twice a month to a social evening, a beer party, so that we could get together and talk. To that the Führer replied, "Herr Lammers, this is not your concern; it is my concern. The next time I go to Berlin, I will do that."

THE PRESIDENT: What are all these details about beer drinking? If they did not meet and he applied to the Führer, asking them to meet, and they never did, that is sufficient. What is the good of going into detail?

DR. PANNENBECKER: Is it correct, therefore, to say that the Reich Ministers had to work on their own in their departments, in their special field of activity, and that a Reich Cabinet as such, which decided questions of policy and was informed and held discussions, did not exist any more at all?

LAMMERS: Actually the ministers were no more than the highest administrative chiefs of their departments. They could no longer act in the Cabinet of the Reich Government as political ministers. I tried to describe that earlier. No more meetings took place; conferences were even forbidden. So, how could it have been possible for them to exchange views?

DR. PANNENBECKER: Do you know anything about Hitler's statement considering the Reich Cabinet as a defeatist club, which he did not want to see anymore?

LAMMERS: In connection with my attempts to reactivate the Reich Cabinet through certain meetings, the Führer told me that this would have to be stopped since an atmosphere might arise which he would not like. He did not use the words "defeatist club" in my presence, but Reichsleiter Bormann told me that he said, "The ministers are not to meet; that might become a defeatist club."

DR. PANNENBECKER: It has been discussed here frequently that a Reich Minister on his own could not resign. Do you know anything about Frick making an attempt to resign his post as Reich Minister?

LAMMERS: In spite of this prohibition by the Führer, Frick repeatedly stated his wish to be relieved of his office if he no longer enjoyed the Führer's full confidence and if the Führer would not receive him any more. He told me that frequently; but I cannot recall a written application for resignation. Frick's wishes to resign were always passed on to the Führer by me although the Führer always rejected such communications very bluntly.

DR. PANNENBECKER: In August 1943 Frick left his post as Reich Minister of the Interior. Do you know any details of what he himself said in that connection?

LAMMERS: At that time Herr Frick himself told me, "I am happy to leave my post as Minister of the Interior, but please see to it that the Führer does not make me Reich Protector of Bohemia and Moravia, as he intends to do. I do not want that office. I want to retire." And I told that to the Führer.

The Führer ordered Frick to come to headquarters. Before Frick went in to see the Führer alone, he told me that he did not, under any circumstances, want to accept the position of Reich Protector, but when he came back from the Führer he had, nevertheless, changed his mind and had accepted the office. If I am right this must have been in August 1943.

DR. PANNENBECKER: Frick's position as Plenipotentiary General for Reich Administration is also one of the points against him in the accusation. Do you know anything about the appointment of that office?

LAMMERS: As Reich Plenipotentiary for Administration he had the task of co-ordinating other ministries. The following were co-ordinated: the Ministry of Interior, the Ministry of Justice, the Ministry for Education, the Ministry for Churches, and the National Office for Regional Planning. He co-ordinated them under his administration and represented them, so to speak, in the Ministerial Council for Defense of the Reich, which came into being in 1939 with the outbreak of the war.

DR. PANNENBECKER: Can you tell me on the basis of what regulations Frick was appointed Plenipotentiary General for Reich Administration? There are two Reich defense laws, one of 1935 and one of 1938.

LAMMERS: The Defense Law of 1935 I can no longer remember. The draft of the Reich Defense Law of 1938, which was not published, allots to the Plenipotentiary General for Reich Administration a great number of tasks which, however, were never passed on to him. He had merely the task of co-ordinating the various departments, which I have just mentioned. At any rate he never exercised actual powers as Plenipotentiary General for the Reich

Administration to the extent to which they were allotted him in the Reich Defense Law.

DR. PANNENBECKER: In this connection one also talks of the powers of a so-called Three Man College. This consisted of Plenipotentiary General for Reich Administration Frick, Plenipotentiary General for Economy Schacht—later Funk—and the Chief of the OKW. Can you tell me what powers these three exercised?

LAMMERS: The expression Three Man College is first of all quite false; it is not a concept in constitutional law but merely a term of convenience, a term used by officials. These three people, the Plenipotentiary General for Administration, the Plenipotentiary General for Economy, and the Chief of the OKW, each had the power to issue decrees, but they were obliged to have the consent of the other two—that is, with the agreement of the others, anyone could give orders in his field. A meeting of this committee, this so-called Three Man College, never took place. The decrees issued by it are very few, insignificant, and quite unimportant. For instance, I can remember that this committee ruled on the question of reducing the numbers of judges in the disciplinary chambers; that is in civil service matters. A second task in this sphere—in all, there were six to eight decrees at the most, but altogether quite unimportant.

DR. PANNENBECKER: In addition there was later on the Ministerial Council for Defense of the Reich. Can you compare these two groups, those three and the Ministerial Council for Defense of the Reich?

LAMMERS: Do you mean the Three Man College for the Ministerial Council?

DR. PANNENBECKER: Yes.

LAMMERS: First of all, after the Ministerial Council for Defense of the Reich was established, it was my principle to stalemate this Three Man College if possible, since it was not at all necessary. The Ministerial Council for Defense of the Reich had the task of issuing decrees with legal effect but it actually had nothing to do with the Defense of the Reich. Military matters were never discussed in this Ministerial Council for Defense of the Reich, nor did it deal with foreign policy or propaganda. In the main it issued decrees which had the effect of laws. Meetings took place only until December 1939, and after that the members communicated with each other by writing for the purpose of issuing decrees. Political debates never took place.

DR. PANNENBECKER: A Central Office was founded in the Ministry of the Interior for the occupied territories. This Central Office has been cited by the Prosecution as evidence of the fact that

Frick had considerable administrative powers, and hence responsibility for the occupied territories. Are you able to say anything about that?

LAMMERS: The Central Office had, in the main, two tasks. One was the obtaining of civil servants, the other was assisting in the issuing of laws and decrees in occupied territories. Such an office was necessary because the occupied territories required personnel and because the Reich commissioners in the occupied territories were directly under the Führer's command. Written communications went in part through me. If personnel was to be provided for within this framework, then I would have had to do it. But I had no instrument for it. I had only a staff of 12 senior officials and I had no organization in the country; I had no executive officials in those countries. Therefore the Minister of the Interior was brought in, since he had the whole civil service apparatus at his disposal.

DR. PANNENBECKER: You just said that the Central Office gave some assistance in issuing decrees for the occupied territories. Was it possible for the Central Office to issue a decree for, let us say, Norway?

LAMMERS: For what?

DR. PANNENBECKER: To issue a decree for some occupied territory, for instance Norway.

LAMMERS: No, not of itself—at the most after the Reich commissioner had agreed.

DR. PANNENBECKER: Was it at all customary for the Central Office at any time to issue a decree for a certain occupied territory?

LAMMERS: To my knowledge that has never happened. I do not know of a single case where the Central Office issued a decree.

DR. PANNENBECKER: A decree by the Reich Minister of the Interior has been cited which ruled on the question of citizenship, also with reference to occupied territories.

LAMMERS: Yes, about German citizenship probably.

DR. PANNENBECKER: Yes.

LAMMERS: Yes, but that was certainly an internal German matter.

DR. PANNENBECKER: Did the Central Office have any right to issue instructions either to the German Plenipotentiary in the occupied territory, say the Reich Commissioner for Norway...

LAMMERS: No, they had no such right at all.

DR. PANNENBECKER: Or did they have a right to issue instructions to lower offices—German offices—or to the occupied territories themselves?



LAMMERS: No, they did not have the right to give instructions.

DR. PANNENBECKER: The Prosecution have further stated that the Central Office also had the right to issue instructions in those territories for which it had not been specifically appointed. Is there any legal provision or any practical case where the Central Office interfered with jurisdiction in the occupied territories?

LAMMERS: No case is known to me.

DR. PANNENBECKER: Is it then correct to say that the chiefs of the civil administration in the occupied territories were always directly subordinate to Hitler as the Führer, no matter what their official designation was?

LAMMERS: In the occupied territories the Reich commissioners of the so-called chiefs of the civil administration were directly subordinate to the Führer.

DR. PANNENBECKER: Did Frick, as Minister of the Interior, have the power to issue orders for the occupied territories insofar as the German Police was active in the occupied territories?

LAMMERS: No, the police authority in occupied territories was vested solely in Himmler who was to act in agreement with the Reich commissioners. The Minister of the Interior had nothing at all to do with the police in occupied territories.

DR. PANNENBECKER: Must it not be concluded from that that this matter came within the competency of the Reich Minister of the Interior insofar as Himmler was subordinate to the Reich Ministry of the Interior?

LAMMERS: There would have been at most a power to issue orders for Germany but not for the occupied territories, and to what extent this power existed for Germany herself is also problematic.

DR. PANNENBECKER: I shall come to that later in detail. Can you tell me what powers the Minister of the Interior had in the police field during that time when the police were still under the jurisdiction of the provinces of Prussia, *et cetera*, that is, from 1933 to 1936?

LAMMERS: Well, his powers were in any case very limited, but I cannot tell you the details.

DR. PANNENBECKER: Did the Reich have the right of supervision?

LAMMERS: Yes, the old right, as it was formerly—the Reich had only the ultimate supervision.

DR. PANNENBECKER: Of course, you know that later on, through a decree, Himmler was appointed Reichsführer SS and Chief of the German Police in the Ministry of the Interior, do you not?

Do you know who created that designation, "Reichsführer SS" and so forth?

LAMMERS: Yes, I had something to do with it at the time. The proposal of such a title originated apparently with Himmler. I objected to this title from the very beginning for two reasons. Two entirely different matters were being lumped together: the Reichsführer SS, which is a Party affiliation, and the Police, which is a State concern. On the one side was the Reichsführer SS who has the rank of a Reichsleiter in the Party, which is equivalent to that of a Reich minister; on the other side the Chief of Police, who has the position of a State Secretary in the Ministry of the Interior and who is subordinate to the Minister of the Interior. But Himmler insisted on this designation, and the Führer considered that he was right.

My objections to this designation proved to be correct in practice, for the Minister of the Interior's right to issue instructions to the Police now became extremely problematic, since Reichsführer Himmler, as far as the police officers were concerned, was, at the same time the SS Führer and could give them orders in his capacity as Reichsführer SS, and the Ministry of the Interior could not interfere. It was also a practice of his that he usually made the other police officials SS leaders. One therefore could never know exactly in what capacity the person concerned was acting, whether he was acting as member of the SS, or as a member of the Police. And the question of authority in the Ministry of Interior afterwards became almost devoid of meaning, because Himmler dropped the last words of the designation, "Chief of the German Police in the Reich Ministry of the Interior," and completely separated himself from the Ministry of the Interior as far as having an office in the building and the mode of procedure were concerned, and no longer felt himself in a subordinate position.

When Minister Frick lodged a complaint about this with me, which I was supposed to take to the Führer, the Führer told me, "Tell Herr Frick that he should not restrict Himmler as Chief of the German Police too much; with him the Police is in good hands. He should allow him as much free rein as possible!"

Thus for all practical purposes, though not by a special decree, the Minister of the Interior's authority to give orders was very sharply limited, if not even suspended.

DR. PANNENBECKER: You have just said that Himmler, on his own, arbitrarily exercised jurisdiction over police organizations without bothering about what Frick wanted. But then there was still another channel for commands issued to the police, orders given by Hitler himself. Did he give them to Frick as the competent minister, or did he give them to Himmler?

LAMMERS: Normally the Führer gave these instructions to Himmler. If he gave instructions to me which concerned police matters then I generally passed them on through the Minister of the Interior, or at least I informed him about them.

DR. PANNENBECKER: Do you know anything about whether concentration camps were included in the budget of the Reich or whether they were in the budget of the SS?

LAMMERS: As far as I know—but I cannot say this for certain—the funds for concentration camps did not appear in the budget of the Reich. It was rather this way: The Reich Minister of Finance paid a yearly lump sum to the Party through the Reich Treasurer, who had to distribute it to the various Party organizations. The Reichsführer SS received a lump sum from the SS with which he probably financed this matter. I also cannot recollect that I ever saw any part of the Reich budget in which the concentration camps were mentioned.

DR. PANNENBECKER: Do you know anything about the fact that Himmler opposed the Minister of the Interior's right to interfere in this field, giving as his reason the fact that the funds for concentration camps had been provided for?

LAMMERS: No, I do not know anything about that.

DR. PANNENBECKER: I now have some questions referring to another field. Do you know anything about Hitler's efforts to kill incurably insane persons painlessly?

LAMMERS: Yes, this idea occurred to Hitler in the autumn of 1939 for the first time. On that occasion the State Secretary in the Ministry of the Interior, Dr. Conti, received the order to investigate this question. He was told to discuss the legal aspect of the matter with me. I spoke against the execution of any such program. But since the Führer insisted on it I suggested that this matter should be given all legal guarantees and be ruled upon by a law. I also had an appropriate draft for a law worked out; thereupon State Secretary Conti was relieved of this task, and in 1940 it was given over to Reichsleiter Bouhler. Reichsleiter Bouhler reported to the Führer, but I was not present. Then he came to see me. I showed him my draft of the law and stated the objections I had to the matter and he left again. Then I presented the drafted law to the Führer; he did not approve of it, but he did not reject it altogether. Later, however, ignoring me, he gave Reichsleiter Bouhler and the medical attendant, Professor Dr. Brandt, then attached to him, plenary authority to kill incurably insane people. I had nothing to do with the drafting of this plenary power. As far as I was concerned, the matter was settled, as the Führer did not want me and had given the work to others to do.

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DR. PANNENBECKER: You have just said that the Führer gave the task to State Secretary Dr. Conti in the Ministry of the Interior. Did that order from Hitler pass to Conti through Frick?

LAMMERS: I do not know. State Secretary Conti was called by telephone by the adjutant's office of the Führer or by Reichsleiter Bormann; and whether that went through Frick or not, I do not know.

DR. PANNENBECKER: Do you know anything at all about whether Frick himself participated in these measures in some form or other?

LAMMERS: No, nothing about that is known to me.

DR. PANNENBECKER: Then I have a last group of questions, referring to the Protectorate in Bohemia and Moravia. When, in August 1943, Frick was appointed Protector for Bohemia and Moravia did the formal authority of the Reich Protector remain the same as before?

LAMMERS: No. These powers were deliberately altered and in such a way that the Reich Protector from then on was to become a more or less decorative figure. The political direction of the Protectorate was to be transferred to State Minister Frank. The Reich Protector was merely the German representative in the Protectorate with very little actual power. He co-operated in forming the government in the Protectorate. Furthermore he had the limited, rather small right of nominating civil servants, which in the main applied to the medium and lower grade of civil servants; and then he had the right of granting pardons. And in general the State Minister for Bohemia and Moravia, Frank, was obliged to keep the Reich Protector informed. In the main these were the rights of the Reich Protector. Apart from that it was Hitler's wish that the Reich Protector did not spend too much time in the Protectorate. In fact I have had to pass this information on to him several times.

DR. PANNENBECKER: You said that the Reich Protector of Bohemia and Moravia during Frick's time was the head of the German administration. Was State Minister Frank under Frick?

LAMMERS: Yes, he was subordinate but the relation was rather that of the head of the State to the head of the Government; State Minister Frank had the political control.

DR. PANNENBECKER: But is it not right to say that Minister Frank was directly subordinate to the Führer?

LAMMERS: I do not believe that that was the situation. I do not remember the decree. He was not directly under him—I cannot

say that for certain now. At any rate the Führer received only Frank and not the Reich Protector for political discussions.

DR. PANNENBECKER: I do not have the decree with me. I shall have to clear that up later.

Do you know anything about the fact that Frick expressly demanded this division of authority and that, to start with, he had refused to accept the position of a Reich Protector in Bohemia and Moravia; and that this division of authority did not take place until he said that he could not assume outer responsibility for something which was not his inner responsibility?

LAMMERS: I have already mentioned the fact that Minister Frick refused to accept this position, and when this decree appeared, in which the rights of the Protector were laid down—a decree which was not published—Dr. Frick quite rightly had misgivings, thinking, “As far as the outside world is concerned, I shall have responsibilities which are not known at all.” So we published a notice in the press. In that it stated that the new Reich Protector would have only such and such rights, as I previously listed here, such as the nomination of civil servants, the right to pardon and the right to co-operate in the forming of a government in the Protectorate. Thus it was stated to the outside world that Frick no longer had the full responsibility which former Reich Protectors had perhaps had.

DR. PANNENBECKER: Did you know anything about the fact that the reason for this division of responsibility in the Protectorate was that Hitler did not think that Frick would be hard enough to handle matters there?

LAMMERS: That was obviously the reason, yes.

DR. PANNENBECKER: In that case I have no further questions.

DR. FRITZ SAUTER (Counsel for Defendant Funk): As a supplement to the statements already made by the witness, I have still a few questions.

Dr. Lammers, the Defendant Funk beginning with the year 1933 was the Press Chief of the Reich Government. That is known to you?

LAMMERS: Yes.

DR. SAUTER: You yourself were at that time already in your office, were you not?

LAMMERS: Yes.

DR. SAUTER: Did the Defendant Funk in this capacity as Press Chief of the Reich Government exercise any influence on decisions made by the Reich Cabinet or on the contents of bills of the Reich Cabinet?

LAMMERS: That question must be answered in the negative. At the most, he may have had an influence from the journalistic point of view, that is, for an attractive title for a law, or some sort of popular wording, or something like that. But he did not vote on the contents of the laws. In his position as Press Chief, he was first Ministerial Director and then State Secretary; he had nothing to say about the contents.

DR. SAUTER: Then why was he, as Press Chief of the Reich Government, invited at all to attend the meetings of the Reich Cabinet at that time?

LAMMERS: Well, because of the reporting to the press afterwards.

DR. SAUTER: That is to say, only to inform the press of the discussions and decisions of the Reich Cabinet? And he had no influence whatsoever on decisions or not on the bills either?

LAMMERS: Yes, that is right.

DR. SAUTER: But without having any influence on decisions or the authority to propose laws.

LAMMERS: Yes, that is right.

DR. SAUTER: In this capacity as Press Chief of the Reich Government, the Defendant Funk had, as you know, to give reports regularly on press matters to the then Reich Chancellor, Hitler. Do you know when these regular reports made by the Press Chief of the Reich Government to Hitler ceased?

LAMMERS: At the latest they ceased 1 year later. These were joint conferences. Funk and I, at the beginning, had as many as three to four meetings a week with the Führer, and this lasted through the summer of 1933. During the winter the meetings became fewer, then became more frequent again, and ceased altogether in 1934, after Von Hindenburg's death.

DR. SAUTER: Who made these press reports to Hitler after that?

LAMMERS: The Press Chief Dr. Dietrich.

DR. SAUTER: Excluding Dr. Funk?

LAMMERS: Yes.

DR. SAUTER: Dr. Lammers, the Defendant Funk later on became President of the Reichsbank. Do you know anything about who had to decide about credits given, or to be given, to the Reich by the Reichsbank?

LAMMERS: That decision was the Führer's. The way it happened in practice was that the Minister of Finance submitted the application for a credit. That was done in duplicate. One letter with the appropriate order was directed to the Reich Minister of Finance, and

the second letter with such an order was addressed to the President of the Reichsbank.

DR. SAUTER: Dr. Lammers, these technical details do not really interest us. We are only interested in this: Did Dr. Funk, as President of the Reichsbank have any influence on the question of whether and to what extent the German Reich could claim credit from the Reichsbank? Only this interests us.

LAMMERS: I can answer that only by citing technical details. All I received were those two documents from the Finance Minister. It was entirely a matter of having them signed. They were signed in one second by the Führer and then they were sent back. I never had an order to negotiate with Herr Funk or with Herr Schacht or with the Minister of Finance. It was entirely a matter of having them signed, nothing else.

DR. SAUTER: So that according to your knowledge these instructions came from Hitler and not from the Reichsbank president?

LAMMERS: The instructions were signed by the Führer.

DR. SAUTER: Dr. Lammers, you have already mentioned once the so-called Committee of Three or Three Man College, which was formed in the later years. Regarding this Committee of Three the Prosecution maintain that Funk was also a member of this committee, and that this committee represented, so to speak, the highest court as far as the legislation of the Reich Government during the war was concerned.

LAMMERS: One cannot say that at all. I have already stated that these three men, each acting independently, had the right to issue decrees with the consent of the two others, and that there were very few and quite insignificant decrees.

DR. SAUTER: You mean decrees of little importance, decrees for his department?

LAMMERS: Yes.

DR. SAUTER: Furthermore, Dr. Lammers, the Defendant Göring stated during his examination that the powers which Dr. Funk had as Plenipotentiary for Economy—I think in 1938—were transferred for the most part to the Delegate for the Four Year Plan, that consequently Dr. Funk's powers, generally speaking, existed only on paper. I should be very interested in knowing whether these powers of the Plenipotentiary for Economy were transferred to the Delegate for the Four Year Plan, in other words, Göring, formally, as well as in fact.

LAMMERS: That was based on a decree of the Führer and a special order issued by the Führer.

DR. SAUTER: When was that, approximately?

LAMMERS: The Four Year Plan was set up in 1936, and it was extended in 1940 for another 4 years. These special powers which Herr Funk later surrendered to the Four Year Plan were based on an agreement between Reich Marshal Göring and Minister Funk, an arrangement which, as far as I know, had the Führer's approval.

DR. SAUTER: Dr. Lammers, you have already told the Tribunal that since 1938, I think, no more meetings of the Cabinet took place and that in the end Hitler even prohibited informal discussions among ministers. Can you tell us anything as to whether and, if so, how often the Defendant Dr. Funk had an opportunity, during the 7 years he was Minister, to talk to Hitler, to report to him, and so forth?

LAMMERS: Well, during the first years, as I have said, he reported frequently as Press Chief.

DR. SAUTER: And later as Minister of Economics?

LAMMERS: Later, as Minister of Economics, he very rarely came to the Führer. At many conferences he was not consulted, even at conferences in which he ought to have been consulted. Quite often he complained to me about that. I tried in every way to do my best to include him in such conferences, but I did not always succeed.

DR. SAUTER: Dr. Lammers, I have noticed that minutes have been read here in which it is clearly said, and I think by you, that the Defendant Funk as Minister for Economics has asked you that he be permitted to participate in this or that important conference, and that you had expressly stated in that record that the Führer had refused that, or that the Führer had prohibited it. May I show you an example? I remember a meeting of 4 January 1944, Document 1292-PS, concerning questions of labor employment. In those minutes it says—once more said by you—that Funk's request to be able to participate had been refused. Can you remember such cases and can you give us the reasons?

LAMMERS: Yes, I can remember such cases, but I do not know whether they were mentioned in the minutes. Probably I informed Herr Funk that I had made the greatest effort to have him participate in these conferences; the Führer, however, had refused.

DR. SAUTER: The reason?

LAMMERS: Frequently the Führer made objections; those were various reasons in the case of Funk. He was sceptical about him and did not want him there.

DR. SAUTER: Witness, in April of 1941 you are supposed to have informed the Defendant Dr. Funk that Rosenberg had received an order from Hitler for a uniform treatment of the problems in the



Eastern Territories. Besides giving that message to Funk you are supposed to have passed it on to Göring and Keitel. From that fact the conclusion has been drawn by the Prosecution that Funk was one of the influential persons concerned with the preparation for aggressive war against Russia.

Can you tell us whether and, if so, why you also passed that message on to the Defendant Funk at that time?

LAMMERS: Either the Führer told me to do so—which I do not think was the case—or I believed that from the economic point of view Funk would be interested in this information. I passed it on to him as a special personal gesture; I do not remember any particular reason now. I certainly must have passed the same message on to others, but not in writing; the others probably received it orally.

There was no question at all of an aggressive war when Rosenberg was given that task by Hitler. He was supposed to be merely a sort of political commissioner for the Eastern Territories. He was to study the conditions of the peoples there.

DR. SAUTER: Dr. Lammers, roughly at the same time, that is to say, the spring of 1941, and shortly before the beginning of the Russian campaign, you are supposed to have had some further discussions with the Defendant Funk on the subject of what turn the foreign political situation in respect to Russia might possibly take in the near future. On that occasion you are supposed to have told Defendant Funk something regarding the reasons why Hitler believed in the possibility of a war against Russia. What did you tell Defendant Funk at that time regarding these preparations for the war undertaken at one time or another?

LAMMERS: It must have been what I knew myself at the time, namely, information which the Führer had given me, that troop concentrations in Russia had been observed, which allowed the conclusion to be drawn that an armed conflict with Russia might occur. These were the words the Führer used. He believed that things would come to a head with Russia and therefore wished that one man, and that was Rosenberg, should concern himself with Eastern questions, since the possibility of an armed conflict with Russia did exist. That is probably what I told Funk. I cannot imagine what else I could have told him.

DR. SAUTER: At that time, Dr. Lammers, you are supposed to have mentioned not only troop concentrations on the Russian side along the Eastern frontier of Germany, but also the Russian march into Bessarabia.

LAMMERS: Yes, it is possible that that was the case. The Southeast, at any rate; and perhaps I mentioned that the discussions which had taken place with Russia, with Molotov, were unsatisfactory.

DR. SAUTER: In that connection, since you now refer to the discussion with Molotov, you are supposed to have told Defendant Funk in particular that Russia was making considerable claims on the Balkans and in respect to the Baltic Sea, and that because of these claims Hitler was reckoning with the possibility of war. Could that be correct?

LAMMERS: It is possible that we have talked about it, but I cannot remember for certain.

DR. SAUTER: And you know, Dr. Lammers, that in this connection an organization was established under the heading "Central Planning?" Do you know that?

LAMMERS: Yes.

DR. SAUTER: Defendant Funk was also made a member of the Central Planning, and I think that was at the end of 1943. Is it correct that Funk, when he joined the Central Planning, was no longer at all interested in the use of workers for German production, and why was that so?

LAMMERS: I believe that Funk's only interest in the Central Planning was to receive raw materials for civilian production.

DR. SAUTER: For civilian production at home?

LAMMERS: Yes, at home. That was his interest in the Central Planning, since he was responsible only for the distribution of these economic goods, and civilian production had been transferred to Minister Speer.

DR. SAUTER: When?

LAMMERS: I think that was at the very moment when the Minister for Armament and Munitions was converted into a Minister for Armament and War Production. I think that was in 1942. Thus Funk was, of course, very interested in raw materials; but the employment of labor, in my opinion, interested him very little, since he did not have enough raw material at all to allow civilian production to go on.

DR. SAUTER: And then, Dr. Lammers, I have one last question: Can you remember that Defendant Funk in the year 1944—it is supposed to have been in February and also a few times during subsequent months—visited you and told you of his trouble because of the unsatisfactory position which he was occupying as Minister of Economics and Plenipotentiary for Economics, and that on this occasion he talked to you about the question of whether his conscience would allow him to retain his position as President of the Reichsbank and Reich Minister of Economics, and, if so, why he did so and why he did not place this office at the disposal of somebody else? Perhaps you can say something about this?

LAMMERS: I have frequently discussed these questions with Funk.

DR. SAUTER: When?

LAMMERS: In 1943, but particularly afterwards in 1944. I know that he was considerably worried about this and that he wanted very much to have an opportunity to take his worries to the Führer personally. If he did remain in office then it was only because he realized that during wartime he could not resign from his post; that would not be the right thing for a good German, to resign during wartime. But he had the most fervent wish to be able to report to the Führer about the economic situation and mainly about the particular impressions which the Gauleiter in the individual districts had. He had the most fervent wish, once for all, to report to the Führer and learn at least something about the war situation and talk about the question of ending the war. That was since the beginning of September. I made several attempts to submit the matter to the Führer; and I nearly succeeded later by camouflaging the real reason and pretending there was another important reason, some question of finance.

I submitted the matter to the Führer; but the Führer sized up the situation, and, although Herr Funk had been waiting at my office for days for the report, he refused the request, probably because of Bormann's efforts towards this end. With the best intentions Funk did not succeed in seeing the Führer and I did not succeed in taking him to the Führer.

DR. SAUTER: Mr. President, I have otherwise no further question.

DR. RUDOLF DIX (Counsel for Defendant Schacht): Mr. President, if you wish to close the session at 5 o'clock, I must say that I shall not have finished by 5 o'clock; and I am reluctant to break off my examination. I leave it up to the Tribunal whether we should extend the session or whether we should break off now.

THE PRESIDENT: I think you had better go on, Dr. Dix; we have nearly 10 minutes.

DR. DIX: Witness, other witnesses and you too—you on the strength of vast experience and your position as Chief of the Reich Chancellery from the seizure of power until the collapse—have stated that applications for resignation were prohibited by Hitler. I therefore do not want to put any more questions on that subject; I merely want to discuss the attempts to resign which Schacht actually made. I ask you first of all to answer the general questions with "Yes" or "No."

Did Schacht send in applications for resignation or not?

LAMMERS: Yes.

DR. DIX: I should now like to discuss with you the individual applications for resignation. I cannot expect you, without any help, to recall individual occasions. I permit myself therefore to help your memory along a little in connection with the first question.

Please recall March 1937, when Schacht stopped Reichsbank credits, that is, gave notice with reference to them and you visited him in connection with this. Was that the first application for resignation?

LAMMERS: I remember that very exactly, since Herr Schacht's application for resignation was very unpleasant for Hitler; and he gave me the task of straightening the matter out with Schacht. Thus I made several personal visits to Schacht, but he refused to withdraw his application for resignation; and he gave, as his reason, the fact that he could not approve any longer the Führer's credit policy and that he was afraid of inflation and would have to protect the German nation from that. As for the freedom of action, he had to . . .

THE PRESIDENT: Dr. Dix, is it necessary to go into details? We gather that there are several offers to resign. Is it necessary to go into the details of each one?

DR. DIX: In that case we leave it. It is enough for me, Dr. Lam-mers, if you confirm that in March 1937 Schacht made his first appli-cation for resignation.

LAMMERS: And then there was a compromise and Herr Schacht, first of all, was to remain in office 1 more year, although the law called for a term of 4 years.

DR. DIX: Please try to remember what happened further in August 1937. Göring had issued a decree concerning mines. It was Schacht's view that this was an unwarranted interference with matters under his jurisdiction. Did a second application for resig-nation follow?

LAMMERS: Yes.

DR. DIX: And did not Schacht write a letter on that occasion addressed to Göring, 5 August, a copy of which he sent to Hitler? Can you remember that?

LAMMERS: Yes. It was because of that letter that Hitler dis-missed Schacht afterwards.

DR. DIX: Now we come to the war. Did Schacht also repeat his applications for resignation during the war? Please recall the summer of 1941 and a memorandum which Schacht sent to Hitler regarding the necessity of a speedy conclusion of peace?

LAMMERS: The first application for resignation was handed in because it had been prohibited to listen to foreign broadcasting stations. Schacht was thereby forbidden to listen to many foreign

stations; and he complained about it and handed in an application for resignation, whether in writing or verbally, I do not know. The request was refused, and later he submitted a memorandum in which he discussed the end of the war and the political and economic situation. I had to tell Schacht, in answer to this memorandum, that the Führer had read it and had nothing to say in reply. Thereupon, in 1942, Schacht again asked me to ask the Führer if he was disposed to receive another memorandum. At this the Führer gave me the order to write to Schacht and tell him to refrain from submitting any further memoranda.

DR. DIX: I could, Mr. President, recall the important points of this memorandum of the summer of 1941 for the witness. If the Tribunal is familiar with the details of this memorandum, which we do not have and which we could ascertain only on the basis of the witness' memory by asking him questions, then I should like to present to him the exact contents of this memorandum. If on the other hand the Tribunal is of the opinion . . .

THE PRESIDENT: Have you the memorandum?

DR. DIX: No, we do not have the memorandum—only in memory—that is to say, Schacht remembers it.

THE PRESIDENT: If the memorandum is lost and you can prove the loss, you can put the contents of it to the witness. If the contents are not relevant it is no good even for the witness. Are the contents of the document relevant?

DR. DIX: These points which I want to submit I do consider relevant. It is not very long either. It is not long.

THE PRESIDENT: So far as the question of proof is concerned, the rule is, I think, if the document has been lost, you can prove the contents of it and you can put it to the witness. Yes, you can put the main points to him, Dr. Dix.

DR. DIX: The question which you put to me involves considerable responsibility. At the moment I can merely assure you that I am convinced that the memorandum has been lost; but whether I can prove it, the negative fact that it is lost, that is something I cannot say at the moment. I am convinced it is lost.

THE PRESIDENT: Herr Schacht presumably is going to say it was lost. You, of course, cannot prove it yourself but I mean you can prove it by Schacht.

DR. DIX: Yes, Schacht will prove it when he becomes a defendant on the stand.

[Turning to the witness.] This was in September 1941, that is to say, after the great successes in Russia by the German Army. Then Schacht wrote in this memorandum to Hitler that Hitler had now reached the peak of his success and that this was the most favorable

moment for him to aim at peace. In the case of any further duration of the war . . .

MR. DODD: I suggest, would it not be more proper for counsel to ask this witness, first of all, whether or not he recalls the contents of the memorandum before reading what purports to be the contents?

THE PRESIDENT: I think he should, yes.

DR. DIX: I did not remind him of the contents; I just wanted to recall to him the individual points. Dr. Lammers has already said that.

THE PRESIDENT: I think you had better put it to him sentence by sentence and not all at once.

DR. DIX: But, I am not proposing to read it, Your Honors, I am merely trying to repeat the contents as Schacht remembers them. I cannot read it, of course, since I do not know it.

THE PRESIDENT: Would you ask the witness if he remembers what the contents were, not putting it in a leading form.

DR. DIX: Yes, I shall certainly ask him. But I think he has already answered, that he no longer remembers all the details, therefore I wanted to aid his memory by recalling the main points.

THE PRESIDENT: Ask him what he does remember of it.

DR. DIX: Well then, Dr. Lammers, without my presenting the main points to you, what do you remember?

LAMMERS: I think that in this memorandum Herr Schacht set forth the economic capacities of Germany and of foreign countries, that he pointed out that this period in 1941—I believe it was in the autumn—was the most favorable moment for peace negotiations, for bringing the war to an end. He also explained the world situation but I cannot remember how. He sketched the political situation in other countries. He talked about America, Italy, Japan, and he compared the factors. After the Führer had looked at the memorandum he put it aside and he said, "I have already disapproved of that; I do not want that."

Further details I do not know.

DR. DIX: When you mention "other countries," do you remember that he stated that Italy's withdrawal was merely a question of time, since the opposition group around the King would not rest until Mussolini was brought down?

LAMMERS: Yes, it is possible that it did say that, but I cannot remember definitely.

THE PRESIDENT: One moment. The Tribunal will adjourn now.

*[The Tribunal adjourned until 9 April 1946 at 1000 hours.]*

# ONE HUNDRED AND THIRD DAY

Tuesday, 9 April 1946

## *Morning Session*

*[The witness Lammers resumed the stand.]*

THE PRESIDENT: Yes, Dr. Dix.

DR. DIX: Witness, it has been pointed out that I am putting my question too soon after your answers and that you are replying to my questions too quickly.

MR. JUSTICE ROBERT H. JACKSON (Chief of Counsel for the United States): I should like to take up a matter before the examination of the witnesses, if I may ask the indulgence of the Tribunal.

I regret to say that this matter of printing documents has proceeded in its abuses to such an extent that I must close the document room to printing documents for German counsel. Now, that is a drastic step, but I know of nothing less that I can do and I submit the situation to the Tribunal.

We received from the General Secretary's office an order to print and have printed a Document Book Number I for Rosenberg. That document book does not contain one item in its 107 pages that, by any stretch of the imagination, can be relevant to this proceeding. It is violent anti-Semitism and the United States simply cannot be put in the position, even at the order—which I have no doubt was an ill-considered one—of the Secretary of the Tribunal, of printing and disseminating to the press just plain anti-Semitism; and that is what this document is. Now, I ask you to consider what it is.

I should say it consists of two kinds of things: anti-Semitism and what I would call, with the greatest respect to those who think otherwise, rubbish. And this is an example of the rubbish we are required to print at the expense of the United States and I simply cannot be silent any longer about this:

“The philosophic method suited to bourgeois society is the critical one. That holds true in a positive as well as a negative sense. The domination of purely rational form, the subjugation of nature, the freeing of the autonomous personality, all that is contained in the method of thinking classically formulated by Kant, likewise, the isolation of the individual, the inner depletion of nature and community life, the connection with the world of form which is contained in itself and with which all critical thinking is concerned.”

Now, what in the world are we required to print that for?

Let us look at some of the anti-Semitism. Now, let us look at what we are actually asked here to disseminate, Page 47 of this document book:

"Actually, the Jews, like the Canaanites in general, like the Phoenicians and Carthaginians, represent a bastard population..."

And it goes on largely upon that theme. Then it goes on:

"The Jews are arrogant in success, obsequious in failure, shrewd and crooked wherever possible, greedy, of remarkable intelligence, but nevertheless not creative."

I do not want to take this Tribunal's time, but last night we received an additional order to print 260 copies more of this sort of thing, and I have had to stop the presses; and we cannot accept the duty of printing this stuff unless it is reviewed by the Tribunal.

Most of this book, as far as we have been able to check it, has already been rejected by the Tribunal; and nobody pays the least attention to the Tribunal's rejection, and we are ordered to print. Now, with the greatest deference, I want to say that the United States will print any document that a member of this Tribunal or an alternate certifies, but we can no longer print these things at the request of the German counsel nor at the ill-considered directions which we have been receiving.

DR. THOMA: At the moment I want merely to explain that on 8 March 1946 I was expressly given permission by the Tribunal to quote excerpts from philosophical books in my document book. Consequently, I have based my work on the assumption that Rosenberg's ideology is an offspring of the so-called new romantic philosophy and have quoted philosophical excerpts from serious new romantic philosophical works, works which have been recognized by science.

Secondly, Your Honors, I have earnestly endeavored not to submit any anti-Semitic books. What has just been read to me must be simply translation mistakes.

I have quoted the work of a famous Evangelical theological teacher, Homan-Harling; and secondly, I have quoted a work of a recognized Jewish scholar, Isma Elbogen; and, thirdly, I have quoted from an excerpt from the periodical *Kunstschatz* written by a Jewish university professor, Moritz Goldstein. I have deliberately refrained from bringing anti-Semitic propaganda into this courtroom. I request, therefore, that the documents quoted by me be investigated to see whether they are really trash and literary rubbish. I still maintain that the works which I have quoted were written by American, English, and French scholars—recognized scholars—and



that the quotations which Mr. Justice Jackson has just read about the bastard race, *et cetera*, come as far as I know, from non-German scholars. But I should have to look at that once more. At any rate, may I ask the Tribunal that my compilation of excerpts be investigated to see whether it is in any way nonscientific or not pertinent.

THE PRESIDENT: Mr. Justice Jackson, the Tribunal thinks that there must have been some mistake in sending to the Translation Division this book of documents without having it presented to Counsel for the Prosecution first. The Tribunal made an order some time ago, saying that Counsel for the Prosecution should have the right to object to any document before it is sent to the translation department.

Some difficulty then arose because documents had been mostly in German. There was a difficulty about Counsel for the Prosecution making up their minds as to their objections until they have been translated. That difficulty was presented to us a few days ago; I think you were not in court at the time, but no doubt other members of the United States counsel were here. We had a full discussion on the subject, and it was then agreed that Counsel for the Prosecution should see Counsel for the Defense and, as far as possible, discuss with them and point out to them the documents which Counsel for the Prosecution thought ought not to be translated, and, in case of disagreement, it was ordered that the matter should be referred to the Tribunal. So that so far as the Tribunal are concerned, they have done everything that they can to lighten the work of the Translation Division. Of course, insofar as documents have been presented to the Translation Division for translation, which the Tribunal had already denied, that must have been done by mistake because the General Secretary's office, no doubt, ought to have refused to hand over to the Translation Division any document which the Tribunal had already denied. But the general principles which I have attempted to explain seem to the Tribunal to be the only principles upon which we can go, in order to lighten the work of the Translation Division. That is to say, that Counsel for the Prosecution should meet Counsel for the Defense and point out to them what documents are so obviously irrelevant that they ought not to be translated.

MR. JUSTICE JACKSON: Well, if Your Honor pleases, I do not think it is a mistake. It arises from a fundamental difference which this Tribunal has not, I think, made clear.

What the issues here are—counsel says that he thinks he should try the new romanticism of Rosenberg. We are charging him for the murder of 4 or 5 million Jews. The question here is one of ideology. The only purpose in ever referring to the anti-Semitic

sentiments is the motive. There is no purpose here in trying the question of anti-Semitism or the superiority of races, the fundamental difference in viewpoint. They believe—and, of course, if they can try this issue with this Tribunal as a sounding board, it forwards their purpose—they believe in trying that issue.

The first thing we get is this book with the order to print it. We cannot tell when they are going to present something in the document room. I simply must not become a party to this spirit of anti-Semitism. The United States cannot do it. And the Tribunal's directions to counsel are simply being ignored; that is the difficulty here.

THE PRESIDENT: I do not know if you have in mind the order which we made on 8 March 1946, in these terms:

"To avoid unnecessary translation, Defense Counsel will indicate to the Prosecution the exact passages in all documents which they propose to use, in order that the Prosecution may have an opportunity to object to irrelevant passages. In the event of disagreement between the Prosecution and the Defense as to the relevancy of any particular passage, the Tribunal will decide what passages are sufficiently relevant to be translated. Only the cited passages need be translated, unless the Prosecution require the translation of the entire document."

Now, of course, if you are objecting to that ruling on principle, well and good, but the ruling seems to the Tribunal, up to the present at any rate, to be the best rule that can be laid down, and we reiterated it after full discussion a very few days ago.

MR. JUSTICE JACKSON: I am calling Your Honor's attention to the fact that Your Honor's order is not being observed and that we are being given these documents to print without any prior notice. The boys in the pressroom are not lawyers; they are not in the position to pass on these things. I do not have the personnel; my personnel, as this Tribunal well know, is reduced very seriously. I cannot undertake it in the pressroom here after an order comes from the General Secretary's office—a review of what can be done.

THE PRESIDENT: Well, but did you . . .

MR. JUSTICE JACKSON: The order is not being carried out; that is the difficulty.

THE PRESIDENT: You mean that none of these documents were submitted to the Counsel for the Prosecution?

MR. JUSTICE JACKSON: The documents were not submitted to Counsel for Prosecution. They came to the pressroom with an order to print from the General Secretary's office. That is what I am arguing, a grievance; one I shall have to remedy. We are in the very peculiar position, Your Honor, of being asked to be press agents for

these defendants. We were ordered to print 260 copies of these stencils that I have. The United States cannot be acting as press agents for the distribution of this anti-Semitic literature, which we have protested long ago was one of the vices of the Nazi regime, particularly after they have been argued on and have been denied by the Court. This, it seems to me, is a flagrant case of contempt of court, to put these documents through after the Tribunal has ruled on them and ruled out this whole document book of Rosenberg.

**THE PRESIDENT:** Certainly, so far as these documents have been denied, they ought never to have been submitted to the translation department. Might not the Tribunal hear from Sir David Maxwell-Fyfe, because he was here on the previous occasion, the last occasion that we dealt with this subject?

**SIR DAVID MAXWELL-FYFE:** May it please Your Lordship, my understanding of the matter is that the Rosenberg documents had been processed—that was what we were informed—before our last discussion of the matter, and I therefore suggested to the Tribunal that the practical application of the proceeding should begin with the documents of the Defendant Frank. That is what I said to the Tribunal.

**THE PRESIDENT:** Then my recollection is that, after we made this rule of 8 March 1946, Counsel for the Prosecution—I think all four prosecutors, and I rather think the document came in signed by the United States, but I am not certain of it—pointed out that there were great difficulties in carrying out this ruling of 8 March, because of the difficulty of Counsel for the Prosecution making up their minds about what documents were irrelevant, having regard to the fact that they had to be translated for them to do it. Is that not so?

**SIR DAVID MAXWELL-FYFE:** That difficulty arose with Dr. Horn over the Ribbentrop documents.

**THE PRESIDENT:** But a written application was made to the Tribunal to vary this rule of 8 March 1946, and it was then after that that we had the subsequent discussion in open court when we came to the conclusion that we had better adhere to the ruling of 8 March 1946. And I see from Rosenberg that the documents, these documents, had been processed already beforehand.

**SIR DAVID MAXWELL-FYFE:** Since our last discussion, of course, we have been trying to get this procedure going. Dr. Dix has met Mr. Dodd and me on the Schacht documents, and I understand that other learned Defense Counsel are making arrangements to meet various members with regard to theirs. But before this time, before the matter arose sharply on the Ribbentrop documents, there had not been any discussion with Counsel for the Prosecution. That is the position.

THE PRESIDENT: But what I am pointing out is that that was because the Prosecution were not carrying out the rule of the 8th March 1946. It may have been impossible to carry it out, but they were not carrying it out.

SIR DAVID MAXWELL-FYFE: I do not know exactly how Your Lordship means, "The Prosecution were not carrying it out."

THE PRESIDENT: Both the Prosecution and the Defense, I suppose; because the application which came to us after the ruling of 8 March 1946 was made on behalf of the Prosecution that they had such difficulties in getting translations for the documents that they proposed another ruling.

SIR DAVID MAXWELL-FYFE: I am sorry, My Lord, if we have not carried it out. It is the first time that anybody suggested this to me...

THE PRESIDENT: I do not mean to criticize you.

SIR DAVID MAXWELL-FYFE: We all have taken immense trouble. Everyone co-operated in every way. I was not aware that we were at fault; I am very sorry if we were.

THE PRESIDENT: I do not mean that, Sir David, but I think there was a difficulty in carrying this out, and I think there was a proposal that the rule should be varied. I will look into that and see whether I am right about it. I remember seeing such an application, and then we had the subsequent discussion in open court in which we decided to adhere to this rule of 8 March; and no doubt this difficulty has arisen, as you pointed out, because of the Rosenberg documents' having been processed before.

Probably the best course would be now...

*[There was a pause in the proceedings while the Judges conferred.]*

Mr. Justice Jackson, wouldn't the best course be for you to object in writing to all the documents which you object to, and then they will be dealt with by the Tribunal after argument.

MR. JUSTICE JACKSON: But, Your Honor, the Tribunal has once rejected the documents, and yet we get an order to print. The Tribunal's orders are not being observed, and—I do not want to criticize counsel—but we have had no opportunity to pass on these. These stencils that I stopped running last night are not anything that has been submitted to us. They have no possible place in the legitimate issues of this Tribunal, and we will get nowhere talking to Dr. Thoma about it. He thinks their philosophy is an issue.

What I think must be done here, if we are going to get this solved, is that the Tribunal—if I may make a suggestion, which I do with great deference; I may be a biased judge of what ought to be done; I never pretended to complete impartiality—that the Tribunal

name a master to represent it in passing these things. We won't finish this by discussion between Dr. Thoma and anybody I can name. My suggestion is that an official pass on these documents before they are translated. If the master finds a doubtful matter he can refer it back to you. We should not be in the position either of agreeing or of disagreeing with them in any final sense, of course. I realize it is too big a burden to put on the Tribunal to pass on these papers in advance and too big a burden on the United States to keep printing them. Paper is a scarce commodity today. Over 25,000 sheets have gone into the printing of a book that has been rejected. I think there is no possible way except that a lawyer with some idea of relevance and irrelevance represents this Tribunal in passing on these things in advance, rather than leaving it to counsel.

I would not even venture to sit down with Dr. Thoma, because we start from totally different viewpoints. He wants to justify anti-Semitism. I think it is not an issue here. It is the murder of Jews, of human beings, that is an issue here, not whether the Jewish race is or is not liked by the Germans. We do not care about that. It is a matter of settling these issues.

COLONEL Y. V. POKROVSKY (Deputy Chief Prosecutor for the U.S.S.R.): With the Tribunal's permission, I would like to add a few words to what Mr. Jackson has said.

I do not wish to criticize the counsel either, but the Tribunal has already said that there may possibly be a mistake. And I would like to draw the attention of the Tribunal to the fact that this mistake took place too often. I will permit myself to remind you about the documents in connection with the Versailles Treaty, which were rejected by the Tribunal in the most decided manner as not relevant; the Tribunal will remember also that a considerable amount of time was spent in listening to the reading of the documents presented by Dr. Stahmer and Dr. Horn. And I would like to remind the Tribunal about another fact, when another decision of the Tribunal was violated. Perhaps it was done by mistake; perhaps not. It took place when one of the documents which was presented by Dr. Seidl was published in the papers before it was accepted by the Tribunal as evidence. And it seems to me that it would be very useful if the Tribunal could, for the purpose of saving time, guarantee more effectively that the rules set out by the Tribunal should be obeyed, not only by the Prosecution, who always follow them carefully, but also by the Defense Counsel.

THE PRESIDENT: Yes, Dr. Thoma?

DR. THOMA: I am very much disconcerted by the reproach that I have not followed the instructions of the Tribunal. During discussions regarding which documents were admissible, I explained in

detail just which philosophical works I want to quote from and why. It has been stated during the case for the Prosecution, that Rosenberg invented his philosophy for the purpose of aggressive war and for the committing of war crimes, *et cetera*. I considered it my duty to prove that this so-called national . . .

THE PRESIDENT: Will you tell the Tribunal where the Prosecution states that he invented his philosophy, whether in the Indictment or in the presentation?

DR. THOMA: I can prove it. It appears in the Churchill speech; and also in the speech by Justice Jackson there are similar expressions that Rosenberg's philosophy had led to that.

THE PRESIDENT: You say it appears in Churchill's speech?

DR. THOMA: Yes.

THE PRESIDENT: What have we got to do with that? I asked you whether the Prosecution alleged it in the Indictment or alleged it in the course of the presentation of the Prosecution, and you answer me that Mr. Churchill . . .

DR. THOMA: No, it is not Churchill, but rather Mr. Justice Jackson. In his presentation he said things, the sense of which was about the same. Consequently I felt that it was my duty to present to the Tribunal that philosophy which, before Rosenberg, raised similar arguments and which is indeed the philosophy of the entire world.

Regarding the presentation of the document book, the following happened: The Translation Division asked me to submit my document book without delay, as they had time at the moment to deal with it before it was handed to the Tribunal. So the Translation Division actually received this document earlier than the Tribunal. But the Tribunal in their resolution of 8 March 1946 had expressly given me permission to use quotations from these philosophical works; they refused me only the anti-Semitic works of Goldstein, Elbogen, and Homan-Harling. Consequently I immediately informed the Tribunal that documents were contained in my document book which had not been granted me.

And now, Your Honors, something of great importance: I have just ascertained that the quotation which Mr. Justice Jackson has just read comes from a French research scholar, Mr. Larouche.

Secondly, I have marked with red pencil those passages in my document book which were to be translated. The passage quoted by Mr. Justice Jackson was not marked in red and was not meant to be included in the document book. This is a regrettable error.

Thirdly, I should like to refer to the fact—my attention has just been called to this—that the passage reads literally, "Rosenberg developed the philosophical technique of the conspiracy and thus

created an educational system for an aggressive war." That was the expression in Mr. Justice Jackson's presentation. I therefore felt justified in pointing out that this entire philosophy was already in the air and was a philosophical necessity which had to make its appearance. I therefore believe that I have cleared myself of the accusation of not having obeyed the ruling of the Tribunal.

THE PRESIDENT: Well, Dr. Thoma, were these documents sent to the pressroom or were they sent to the translation department?

DR. THOMA: In my opinion, they were sent to the Translation Division, since this department had told me that they had time at the moment, but expected a terrible rush soon. I had my document ready and I gave it to the Translation Division.

THE PRESIDENT: Mr. Justice Jackson stated apparently that they had been sent to the pressroom and were being disseminated to the public in that way, but on the outside of each document book there is this notice that they are not to be publicized until they are presented before the Tribunal in open court and then only that portion actually submitted as evidence. Therefore, any documents which are sent to the translation room are not disseminated, or ought not to be disseminated to the press and ought not to be publicized until they are presented before this Tribunal.

There seem to be a number of misunderstandings about this which seem to have arisen principally from the fact that you submitted your documents to the translation department before they had been submitted to the Tribunal, and therefore some of them got translated which were subsequently denied by the Tribunal. Is that right?

DR. THOMA: No, Your Honors, that is not right. First of all, this was actually a matter of internal procedure in the various offices of the Translation Division. I gave the Translation Division this document book because they asked me to do so, and then...

THE PRESIDENT: I did not say who had asked whom. I said that the translation department got the documents for translation. They received them before they were submitted to the Tribunal, and, in consequence, they translated certain documents which were subsequently denied by the Tribunal.

DR. THOMA: The only rejected works were, as is known, the three anti-Semitic works. That these documents from the courtroom reached the press I naturally did not know. I was merely trying to lighten the work of the Translation Division. I subsequently informed the General Secretary that I had submitted the document book and I referred him to it. The quotations from my philosophical works, however, were granted to me later. I want to point out again that I was always of the opinion that this was an entirely internal matter

and that these documents could by no means reach the press. I was not informed about that. I am very well aware that quotations not read in court are not supposed to reach the press. I have adhered to that rule. Nothing has as yet been stated in court and therefore it should not reach the press.

THE PRESIDENT: As you no doubt know, the first granting of documents when they are applied for is expressly provisional, and afterwards you have to submit your documents in open court, as Dr. Horn did, and then the Tribunal rules upon their admissibility; and this other rule was introduced for the purpose of preventing undue translation. It was decided then that after the Tribunal had given its provisional ruling as to what was provisionally relevant, you should then submit the passages you wanted to quote, to the Prosecution Counsel to give them an opportunity to object, so that the translation department should not be unduly burdened. That, as you have explained and as Sir David Maxwell-Fyfe has said, was not carried out in your case, partly possibly, because, as you say, the Translation Division was prepared to undertake certain work. Therefore, documents were submitted to them which the Tribunal subsequently ruled to be inadmissible.

MR. JUSTICE JACKSON: May I correct something which has led to misunderstanding? I did not mean to say that counsel had sent the documents to the press in the sense of a newspaper press. They were sent to the press, the printing press. They were, of course, printed. The 260 copies we were ordered to print contained the usual release notice that they were not to be released until used. They have not reached the press, and I did not mean to say that they had been sent to the newspaper press; they were sent to our printing press.

THE PRESIDENT: Yes, Dr. Dix?

DR. DIX: Your Honors, before a resolution is made to the matter under discussion, I should like to make just a few remarks, not referring to the case of Rosenberg but to the Defense in general. Very serious accusations against the entire Defense have been raised. The expression was used that the Prosecution was not the press agent of the Defense. The accusation was raised that the Defense were trying to make propoganda, and then these accusations reached their peak in the most serious charge which one can possibly make in reference to a participant in a trial, that of contempt of Court.

In the name of all Defense Counsel I oppose these heavy accusations with the best and strongest argument possible, that of an absolutely clean and pure conscience in this respect. Anyone who has listened to the debate of the last 30 minutes must have recognized that the differences of opinion, which have cropped up here and on



which the Tribunal will now have to announce a decision, are due again to misunderstandings which have occurred in this courtroom.

Mr. Justice Jackson has generously made it clear that he was not talking about the newspaper press when he said "press," but about the printing press. My colleague Dr. Thoma has stated that the only reason why these documents went to the Translation Division, was the fact that the Translation Division, very understandingly and reasonably from their point of view, had said, "We do not have very much work at the moment. Please let us have it, and we can start to translate it." I believe that we could avoid all these difficulties if we mutually agree that both parties, the Prosecution and the Defense, are working with good will and loyalty, and that the thought of deliberately disregarding the rulings of the Tribunal is far from us. Errors and mistakes can always happen. May I just remind you that this leakage of news to the press, that some announcements were released to the press before they were actually the subject of proceedings here in court, that that was something that happened quite frequently at the beginning of the Trial. I do not want to mention examples since the Tribunal knows that it was not the Defense. I do not know who it was; at any rate it was not the Defense. But I make no charges. Things like that do happen, and such an apparatus as this Trial must have a breaking-in period. There was no ill will at that time either. But I remind you that it was we, the Defense—I was the spokesman—who quite energetically supported the ruling that only such matters should reach the press as had been introduced into the record here in the public sessions, and that it was after that that the Tribunal passed its ruling. Previously it had been different.

I never considered that an insult, but rather merely the God-given dependence of human beings. For instance, it was impossible for me to get the Charter, the basis of our Trial, at the beginning of the Trial, but eventually it was graciously placed at my disposal by the press.

Thus whenever so complicated an apparatus is set in motion, there are naturally many errors and mistakes. But we have now already begun with Sir David to deal with questions of documents in the most practical manner possible. As long as we had only the German text, we conferred with the Prosecution in order to find out what passages the Prosecution believe they can object to. There were technical difficulties, linguistic difficulties, as long as we had only the German text and the Prosecutors spoke other languages. I spoke to the Prosecution, and we realized the problem confronting the other partners. But that, too, could be solved with good will; when necessary we used an interpreter. Thus it was an excellent and a practical method, first, for saving the Translation Division

unnecessary work and, secondly, for saving the Tribunal unnecessary decisions. And it was working beautifully; it had a good start. I want to claim for the Defense—and I am sure that Sir David will not contradict me—that this was really our idea as well as the practice to co-operate in coming to an unofficial agreement beforehand by conferring with the Prosecution.

The Defense in this Trial are in a very difficult position. I think every one of you will admit that human ability and an almost exceptional degree of political tact is required in order to defend in this Trial without ever making some small mistake. At any rate, I, for myself, do not claim that I am absolutely sure of myself in this respect or that I will not perhaps commit some small *faux pas*. We find ourselves in a very difficult situation, difficult as far as the world is concerned, difficult as far as the Tribunal are concerned, and difficult as far as the German public is concerned.

May I urge Mr. Justice Jackson to appreciate our difficult task and not to raise such accusations as those which, unfortunately, we often have to read in the German press. We cannot always, when we are attacked in newspaper articles in which unjust accusations are raised against us, run to the Tribunal and say, "Please help us." The Tribunal have more important tasks than that of continuously protecting the Defense.

However, as to the particular accusation that National Socialist propaganda or that anti-Semitic propaganda is being made here, I think I can say, with a clear conscience, that none of the Defense Counsel, no matter what his own philosophy or what his political views in the past may have been, has ever dreamed of trying to use this courtroom to make ideological propaganda for the dead—I emphasize the word "dead"—world of the Third Reich. That would not only be wrong; it would be worse than a wrong; I might say, using Talleyrand's words, that it would be unbearable stupidity to do a thing like that.

But, just because we are being attacked and because we cannot defend ourselves, and because we cannot decently ask the Tribunal to protect us against every accusation, I am asking Mr. Justice Jackson to clear the atmosphere somewhat and to state to us that these serious accusations—contempt of Court, anti-Semitic propaganda, or National Socialist propaganda, and so forth—were not really meant to be raised seriously.

I think that the friendly co-operation which has existed between us and the Prosecution so far—I must openly confess that I look back to this co-operation with gratitude and that I wholeheartedly acknowledge the help and comradeship which these gentlemen have shown me. This should be preserved. Where would it lead us, if we

were to oppose each other here like fighting cocks in the cock-pit? We are all pursuing the same aim.

Not only do I ask him to do this but, knowing him as I do, I am sure that even without my request he will make a statement in order to clear the atmosphere in regard to this accusation which is extremely painful not only for the Defense but also for the entire Court.

May I thank you, Your Honor, for being good enough to listen to me for so long; but I believe that the matter was sufficiently important to call for further co-operation, without friction and in the interest of the cause, between the Prosecution and the Defense.

DR. THOMA: Your Honors, I ask to be permitted a few words in order to make a factual correction.

I should like to quote exactly in which passage it becomes apparent that Rosenberg is being held solely responsible for the mistaken ideology. It says in the presentation of the case for the American Prosecution, on Page 2254 (Volume V, Page 41) of the German transcript, that Rosenberg remodeled the German educational system in order to expose the German people to the will of the conspirators and to prepare the German nation psychologically for a war of aggression. That is a quotation which is here at my disposal.

Secondly—one word more, I am forced to reply in person to the accusation raised by Mr. Justice Jackson—I must state something which I should normally not have said in this courtroom, namely, that I have told Herr Rosenberg repeatedly, “Herr Rosenberg, I cannot defend your anti-Semitism; that, you have to do yourself.” For that reason I have limited my documents considerably, but have considered it my duty to place at Rosenberg’s disposal every means necessary for him to defend himself on this point.

I should like to draw your attention once more to the fact that this passage which has been quoted by Mr. Justice Jackson was not marked in red in the document book and has been included by error.

MR. JUSTICE JACKSON: I certainly do not want to be unfair to our adversaries; I know they have a very difficult job. However, I hope the Tribunal has before it—and I shall withdraw all characterizations and let what I have to say stand on the facts—the order of 8 March 1946, Paragraph 3 thereof. I call the attention of the Tribunal to the fact that that reads, “The following documents are denied as irrelevant: Rosenberg . . .” And then follows a list of documents: *Kunstwart*, *History of the Jews in Germany*, *History of the Jewish People*. Those are the only three that I shall take time to call to your attention.

Two days after that order Rosenberg's counsel filed with this Tribunal, on 10 March 1946, a rather lengthy memorandum in which he renewed his request for quotations from the books listed.

On 23 March 1946, this Tribunal again denied that request as irrelevant.

I will now hand to you the stencils which we were ordered, by the order of 8 April 1946, to print. They are a little difficult to read. The first is a quotation from the *History of the Jewish People*, one of the prohibited books. The next is a quotation from *Kunstwart*, another of the prohibited documents. And the third is from the *History of the Jews in Germany*, the third of the books that I have mentioned.

We have not had time to examine all of these stencils, but a hurried examination of them indicates that they are very largely, if not entirely, quotations from the prohibited documents.

I will make no characterization of it; I simply rest on those facts.

THE PRESIDENT: Mr. Justice Jackson, doesn't the whole point turn upon the date at which those documents were submitted to the translation department? Because what Dr. Thoma says is that in consequence of the translation department's being ready to accept documents, he handed them in before they were actually denied by the Tribunal. And if that is so, it would be obvious, would it not . . .

MR. JUSTICE JACKSON: My Lord, I do not know what he said. I did not understand that they were handed in before 8 March 1946. But in any event, even if they were translated, the order to us to print is dated 8 April 1946 and was delivered with them on 8 April. Now certainly there was time after the denial to have stopped our spending of money and effort printing things that had been prohibited, and which were prohibited twice.

I will not characterize it; the facts speak for themselves.

THE PRESIDENT: Dr. Thoma, can you help us about the dates at all? Can you help us as to this? Mr. Justice Jackson has stated that after these three documents had been refused in the first instance, you then renewed your request for them on 10 March 1946 and that on 23 March 1946 they were finally denied.

Well now, when did you send the documents to the translation room?

DR. THOMA: The documents, I believe, were given to the Translation Division before 8 March. There was a session regarding the admissibility of documents; and it was about that time, before a decision had been made, that the Translation Division had been in touch with my secretary and asked her to hand in the document book, since they had heard that it was ready.

I then endeavored in this courtroom to have the philosophy admitted and had the impression that the Tribunal would not want to agree to these documents. Thereupon I once more submitted a written application to the Tribunal in order to have these documents admitted. When I was then informed that the anti-Semitic books would not be permitted—and that was a few days after the date of this decision—I informed the Tribunal that I wanted to draw their attention to the fact that books which had not been approved were being translated.

THE PRESIDENT: Dr. Thoma, quite naturally, you are not able to give us the exact dates at this moment, but we will look into this matter fully.

DR. THOMA: I should like once more to draw your attention to the fact that I myself pointed out that there are excerpts in the document book which had been refused. I beg you to draw from that the conclusion that I was not trying to do anything which was not permissible.

THE PRESIDENT: I think, if the document had been denied, the proper course would have been to withdraw the documents from, or to communicate with the Translation Division notifying them that they should be withdrawn.

However, the Tribunal thinks that the best course in this matter would be for the Tribunal to consider Mr. Justice Jackson's suggestion. That is, in order to relieve the Prosecution of the task of deciding or objecting to the documents which are to be submitted to the translation rooms, that matter should be considered by somebody deputed by the Tribunal as a master.

The Tribunal thinks that Mr. Justice Jackson or the prosecutor's committee should apply in writing to strike out all the irrelevant documents of which they complain in the document book on behalf of the Defendant Rosenberg, which has been submitted.

Third, for the present the Tribunal would adhere to the system which they have established with the consent of the prosecuting counsel.

The only thing I need add to that is that I find that I was right in saying that the Court Contact Committee of the Prosecutors did apply to the Tribunal on 29 March 1946—I have the document before me—requesting the Tribunal to vary the ruling which they had made, namely, Ruling 297, made on 8 March 1946.

DR. THOMA: I actually visited the officer and told him that the documents must be taken out, that they must not stay in. However, it transpired that hundreds of copies had already been bound and prepared and I was told, "Well, after all, they are not going to be quoted, so they might as well stay in since they are not going to be

quoted." I expressly made the request to have them taken out of the document book.

THE PRESIDENT: Of course, I did not mean that the Tribunal were asking the Prosecution to apply in writing to strike out documents which have already been rejected. Those documents, of course, will go out without any application; but if and insofar as there are other documents contained in the Rosenberg document book to which the Prosecution object, then they might conveniently apply, although, of course, that matter will have to be discussed in open court.

As I have already pointed out, the granting of any documents is expressly provided to be provisional, and the application for the final admission of the documents has to be made in open court.

The Tribunal will have a report made to it by the General Secretary as to these dates and these matters. And now the Tribunal will adjourn for 10 minutes.

*[A recess was taken.]*

THE PRESIDENT: The Tribunal have come to the conclusion that it will save time if the defendants are called first as the first witness in the case of each defendant; and, therefore, in the future the defendant must be called first unless there are some exceptional reasons, in which case defendant's counsel may apply to the Tribunal and the Tribunal will consider those reasons for calling the defendant in some position later than first witness.

Yes, Dr. Dix.

DR. DIX: Witness, I had started to say that it had been pointed out to me that I had asked my questions too quickly after you had given your answers and that you were answering too quickly after I had put the question. The interpreters cannot follow, nor can the stenographers. I ask you, therefore—and I shall do the same—to pause after each question. I am sure that the Tribunal will not interpret these pauses as meaning that you are not sure of your answers.

Yesterday you made detailed statements to the Tribunal regarding the various applications for resignation which Schacht presented to Hitler and regarding various moves and proposals for peace which Schacht made or wanted to make, orally or in writing, during the war to be delivered by you to Hitler. We were speaking about such a memorandum of the summer of 1941, and I had the feeling that the Tribunal have procedural objections because I was putting the contents of the document to the witness and having him confirm them. The copy of this document is in the strong box which has

already been mentioned repeatedly and which was confiscated on Schacht's estate by the Red Army when the Red Army marched in. Despite all efforts the Russian Delegation have not yet succeeded in getting this strong box.

Although some rather good passages are contained therein, I am perfectly willing to break off here and to put these questions to Herr Schacht if the Tribunal would prefer that. May I have the Tribunal's decision on this question; if necessary I can cease to discuss the memorandum any further.

**THE PRESIDENT:** The Tribunal had no objection to your asking this witness about it, but they thought you ought not to put a leading question and that you ought to ask the witness if he remembers the document and what the contents of the document were; not to put to him that it was such and such in the document or some other passage in the document, but just to ask him what the contents of the document were.

**DR. DIX:** The dividing line between leading questions and putting the contents of a document to the witness, a document which the witness does not remember exactly, is rather fluid. Therefore, I should prefer to have Herr Schacht give the rest of the contents of the memorandum; then we would avoid these difficulties. I shall therefore leave this point and proceed to another field.

Witness, you quite correctly stated yesterday in answer to a question in connection with the defense of Funk by my colleague, Dr. Sauter, how it was the practice in 1939, that Hitler simply decreed that the Reichsbank would have to give so much credit. I want to avoid a mistaken impression on the part of the Tribunal as to the former position of the Reichsbank in regard to this question.

You know that by Hitler's decree, the Reichsbank in January 1939 lost its former independence. In this decree Hitler ordered that he would decide what credits the Reichsbank would have to give; and this restricted decree of Hitler's was announced and became effective as a law in June 1939.

Therefore, in order that the Tribunal get a proper impression of the general and also of the former position of the Reichsbank, I am asking you how the situation was before January 1939, that is, during Schacht's term in office as Reichsbank President, which ended, as is known, in January 1939. Was it possible at that time for Hitler simply to decree that so much credit was to be given, or was the Reichsbank still independent and could it refuse such credit or cancel it?

**LAMMERS:** I do not remember the legal regulations which existed in this connection to such an extent that I can give a complete answer as to when and how they were altered. I can confirm

one thing, however; that is that during the period when Herr Schacht was President of the Reichsbank he must have made certain difficulties for the Führer with reference to the granting of these credits. I was not present at the discussions between the Führer and Schacht, but I know from statements made by the Führer that regarding those credits he met with considerable difficulties and restraints on Schacht's part, restraints which finally brought about Schacht's resignation from his position as President of the Reichsbank. On the other hand, I know that at the moment when Funk became President of the Reichsbank, these difficulties ceased to exist. These were obviously removed by legal regulations and also by orders which the Führer had given; for when Funk became President of the Reichsbank, these credits were simply handled in the way which I described yesterday, when I described the technical procedure; in the main orders for credits and Reich loans from the Reichsbank were merely a simple matter of signature for the Führer. They were a matter . . .

THE PRESIDENT: I do not think he is able to answer your question, really. I do not think he is able to answer the question which you put to him, which was as to the position before 1939, so I think you must rely upon the decrees and documents.

DR. DIX: One moment, Herr Lammers: I shall clarify that right away. You have just stated how things were handled in practice in 1939, in the books. Do you not remember that the Reichsbank had previously been independent as far as the Government was concerned?

LAMMERS: Yes, I do remember. I also recollect that certain legal alterations were made, but I cannot remember just when. Without seeing the law books I cannot tell you exactly the contents of these legal regulations, just what the limitations were in terms of figures. All I do know is that the position of the President of the Reichsbank was later reduced considerably according to orders coming from the Führer.

DR. DIX: That is enough. Now, as to the same subject: It is very difficult even for a German who has lived here the whole time but particularly for a foreigner, to understand the powerful machinery of the Third Reich. I think that in spite of the statements that you made yesterday in answer to the questions which my colleague, Sauter, put to you, not everything has yet been said and that you can say still more to inform the Tribunal. If I did not know what you know, if I were an outsider, then your statements of yesterday would give me the impression: Well, it was like this—the Reich Minister of the Interior could not give orders to the Police; the Reich Minister of Economy did not direct economy



independently; all Reich Ministers were without official authority and could not give instructions as far as the Reich commissioners for the occupied territories were concerned.

MR. DODD: If Your Honors please, I respectfully suggest that Dr. Dix is really testifying here. I think perhaps he could put his questions more simply and we can get along faster and get the answer better.

DR. DIX: I shall put my questions more precisely, but I cannot put that question precisely unless I first of all ascertain, by means of statements, what has not yet been said up to now. Otherwise the most precise and shortest question cannot be put, for the Tribunal would not understand what I am aiming at. I can assure Mr. Dodd, I shall not ask anything of an uncertain nature; rather I shall put a very precise question. Let us proceed at once.

*[Turning to the witness.]* We have already talked about the office of the Reichsbank President. Now I should like to ask you: If all these ministers were so hampered in respect to their authority, who were the men and who were the authorities who could interfere in departmental jurisdiction and who held the real power? That is my question. And I might mention that as far as Frank is concerned, Himmler's interference has already been mentioned. But we must go into that question more deeply so that the Tribunal can see clearly what we are talking about.

LAMMERS: The infringement on the authority of the individual ministers arose because of the number of institutions which the Führer had created obviously quite consciously as a counterpoise, I might say, to the various ministers. That is the one faction. Secondly, it was done through offices created on a higher level, which, in the interest of a certain uniformity in particular fields, were to have sole authority. In the last category the typical example is, in the first instance, the Four Year Plan. In this connection the Führer desired a comprehensive unified direction which was not to depend on the wishes of the ministers of the departments, and consequently, he created the Four Year Plan. In other sectors, in some way or other, the minister was confronted with a counterpart; for instance, by the appointment of Herr Ley as Reich Commissioner for Housing the Minister for Labor lost his jurisdiction in the important field of housing. He was relieved of one of his main duties by the appointment of the Plenipotentiary General for the Allocation of Labor, Herr Sauckel, in the field of labor employment. As far as economy was concerned, the Minister of Economy, as I have already mentioned, was considerably limited in his powers by the setting up of the Four Year Plan and the powers given to it and later, in addition to that, by the powers which were transferred to the Minister for Armament and War Production. In

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the Ministry of the Interior the actual authority of the Chief of the German Police . . .

THE PRESIDENT: Dr. Dix, the Tribunal thinks that once the general aspect of the matter has been explained by the witness the matter can be explained by the defendants themselves from their particular point of view. I mean the witness is now explaining to us, and probably indicating he will do it at some length, that with reference to the Four Year Plan, for instance, there was to be a unified command which was not to be interfered with by individual ministers. That explains the general system and when it comes to the individual defendants they can explain how it applied to them, and, therefore, we do not want this dealt with at any great length or in any great detail.

DR. DIX: I shall take that into consideration and ask merely a few more concrete questions.

It is not merely a question, Your Lordship, of the ministers having had to hand over certain fields in their departments to third persons, but there is also the fact that third persons, because of their authority, actually interfered in a field which was really under the jurisdiction of the minister. And now I shall give the witness a lead: What was, for example, the position of Reichsleiter Bormann?

LAMMERS: The Reichsleiter Bormann was a successor to Reich Minister Hess.

DR. DIX: And as far as interference in the ministries is concerned?

LAMMERS: He was appointed secretary to the Führer by the Führer and was thereby directly included in the State sector. As Chief of the Party Chancellery he was merely the successor to Reich Minister Hess, who was supposed to represent the wishes and ideas of the Party. The fact that he was appointed secretary to the Führer, which meant that in the State sector a considerable number of things would have to go through Bormann's hands gained him a strong position in the State affairs. I had to experience this personally to a large extent, since I, who originally had at least been able, on occasion, to report to the Führer alone, could no longer do that and could get to the Führer only by way of Bormann. Most of my reports were given in Bormann's presence and everything which I formerly had been able to dispatch to the Führer directly, even pure and simple matters of State, had now to go through the Secretary of the Führer, through Bormann.

DR. DIX: This resulted, of course, in Bormann's influence in the various ministries?

LAMMERS: Yes, he had that influence, for all departmental matters which I could not settle by reporting them to the Führer directly or by asking for his decision had to be made in writing and had to go through Bormann. I would then receive word from Bormann saying this or that is the Führer's decision. The possibility of a personal report, which would have enabled me to speak on behalf of the minister for whom I was reporting, was lacking. They were not my own affairs; they were always complaints or protests or differences of opinion among the members of the Cabinet which I finally could no longer take to the Führer personally.

DR. DIX: Thank you, that is enough.

And what you say about Bormann, does that not apply to some extent to the Gauleiter, too, who also interfered in the ministries?

LAMMERS: Gauleiter as such, had, of course, to go through the Party Chancellery; that was the prescribed channel for them. Since the Gauleiter as a rule, however, were at the same time heads of Prussian provinces or Reichsstatthalter these two positions were, of course, somewhat mixed up; and a number of matters, instead of going through the prescribed channels from the minister concerned and through me, went directly from the Gauleiter to Reichsleiter Bormann. There are, in fact, cases where this channel was chosen deliberately.

DR. DIX: Thank you. Regarding the position of Himmler in the same respect, that of the appointment of a third person with authority, you made statements yesterday in connection with the cases of Frank and Frick. Can your statement be extended, in fact, to all leading ministries, with reference to the increased power given to Himmler and the SS and his Police?

LAMMERS: I did not quite understand the question.

DR. DIX: You did not hear the question?

LAMMERS: I did not understand the question completely.

DR. DIX: Well, under the heading "interference with other departments" you have talked about Bormann and you have talked about Gauleiter; yesterday you talked about Himmler, his Police, and his SS with reference to the cases of Frick and Frank. I am now asking you whether this increasing power of Himmler's and the SS did not similarly affect the other ministries?

LAMMERS: To a considerable extent in the most varied fields.

DR. DIX: That exhausts that question.

I am now coming back to Schacht. We have talked about the applications for resignation. Now we come to the actual dismissal. Ministers who were dismissed were usually given a letter of dismissal by Hitler?

LAMMERS: Yes.

DR. DIX: And this letter of dismissal, I assume, was drafted by you and discussed with Hitler?

LAMMERS: Yes.

DR. DIX: Was considerable attention paid by Hitler to the wording of this letter of thanks on the occasion of a dismissal?

LAMMERS: Hitler usually looked at it carefully and he frequently made his own improvements, a sharper or a milder wording.

DR. DIX: The two letters of dismissal, Your Honors, which concern Schacht's dismissal from his office as President of the Reichsbank and as Minister without Portfolio are included in my document book as evidence. Therefore I do not propose to put them to the witness to any extent. There are only two sentences I propose to quote in the letter of dismissal from Hitler to Schacht on the occasion of his dismissal from his position as President of the Reichsbank: "Your name particularly will always be connected with the first period of national rearmament." Schacht considered that this sentence was written deliberately and that it contained a slight reprimand, a limitation of the praise he was getting. What is your view to this question, as one concerned in the drafting of that letter of dismissal?

LAMMERS: As far as I can recollect, I drafted the letter in such a way that a general expression of thanks was made to Schacht. This additional sentence is due to a personal insertion by the Führer, as far as I can recollect, because it was not like me to make such a subtle difference here.

DR. DIX: In a later letter of dismissal of 22 January 1943, not signed by Hitler, but by you by order of the Führer it is said:

"The Führer, with regard to your general attitude in this present fateful struggle of the German people, has decided to relieve you temporarily of your office as Reich Minister."

Herr Schacht's feeling regarding his personal safety could not have been exactly pleasant when he read that sentence.

May I ask you, since you drafted this letter on Hitler's order, was Schacht's anxiety unjustified?

LAMMERS: As to the reasons which caused the Führer to dismiss Schacht, I know merely that a letter from Schacht to Reich Marshal Göring caused the Führer to dismiss Schacht from his position. The Führer did not inform me of the actual reasons. He was very violent and ordered me to use this text, implying that he even wanted it to be somewhat sterner, but I put it in the rather acceptable form which you find in this letter. The Führer did not tell me, of course, what further measures were intended against

Schacht. But he had expressly ordered me to use the word "temporarily."

DR. DIX: A last question: Originally I had intended to ask you in detail, as the person best informed on these points, about the slow development from the year 1933 until Hitler's complete autocracy. The answers which you gave to my colleagues yesterday have, in the main, settled these questions. I do not want to repeat them. But two questions I should like to have clarified. The Enabling Act of 1933—that is the law by which the Reichstag deprived itself of its powers—did this law empower Hitler, the Reich Cabinet, or the Reich Government?

LAMMERS: This Enabling Act gave legislative powers and the right to alter the Constitution to the Reich Government, and the Reich Government, in turn, used this power to alter the Constitution, both expressly as well as by implication, by creating public law based on usage which . . .

DR. DIX: Yes, thank you. You explained that yesterday. You do not need to go into that again. Yesterday you pointed out that this Reich Government consisted not only of National Socialists but that the majority of their members belonged to other parties. You mentioned only members of the German National Party, such as Hugenberg, Dr. Dorpmüller, and Gürtner, and you mentioned the Stahlhelm, the head of which was Seldte; but you forgot—and that is why I am asking you—to mention the Center Party. Is it true that Herr Von Papen came from the Center Party?

LAMMERS: Yes, I admit that is correct; but I do not know whether Herr Von Papen was a member of the Center Party or not.

DR. DIX: In my opinion you talk in rather scholarly and euphemistic terms about public law based on usage. I am going to give it a different name, but let us not discuss that. All I want you to tell me is whether during that gradual development toward complete dictatorship by Hitler, there were some other laws which were important and, as such, significant?

Do you not consider the law after Hindenburg's death which unified the offices of the Reich Chancellor and the Reich President with the result that the incumbent of this office became simultaneously the supreme military commander to whom the Wehrmacht swore their oath—do you not consider that law a further milestone in that development?

LAMMERS: That law was one of the most important milestones in this development, particularly because, by decree of the Reich Government, it was confirmed by a plebiscite with nearly 100 per cent votes.

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DR. DIX: And no further laws were issued to support this development?

LAMMERS: No, I do not know of any.

DR. DIX: Nor do I.

And the other question is whether a combination of terror and ruse can be called public law based on usage and whether one should want to call it that. That is a question I do not want to raise at the moment; I think we are of different opinions in that connection.

Your Lordship, I have now finished my questions to the witness Lammers on behalf of my client. But my colleague Dr. Kubuschok is away on duty. I do not think the airplane took off yesterday and therefore I do not think that he can be back. He asked me to question the witness on behalf of Herr Von Papen, and I wanted to ask the Tribunal whether I may ask the witness the question now—there is only one short question—or whether I should wait until Papen's defense comes up at the proper time.

THE PRESIDENT: No, now, because this witness will not be called again except for some very exceptional reason.

DR. DIX: No, I meant, did you want me to ask the question later today, when Von Papen's turn comes in the proper sequence of defendants?

THE PRESIDENT: You may go on now. I think you had better ask it now.

DR. DIX: [*Turning to the witness.*] Please call to mind the Röhm Putsch. Papen's experiences during that revolt will be discussed later. But do you remember that Von Papen, who was Vice Chancellor at the time, demanded his dismissal from Hitler on 3 July 1934, and received this dismissal?

LAMMERS: Yes, I cannot tell you whether the date is right, but it happened right about that time.

DR. DIX: Do you also remember whether a short time afterwards, probably only a few days afterwards, between 7 and 10 July, you went to see Herr Von Papen by order of Hitler and asked him whether he was prepared to accept the position of Ambassador to the Vatican?

LAMMERS: I can remember that I visited Von Papen and, acting on the Führer's order, was to give him the prospect of another position and that this concerned a position with the Holy See. But whether I had been ordered to make him a direct offer, that I cannot recollect now.

DR. DIX: Do you remember what Papen replied to that?

LAMMERS: At that time he was not very much inclined to accept such a position.

DR. DIX: Thank you. I have no further questions.

DR. ROBERT SERVATIUS (Counsel for Defendant Sauckel): Witness, on 21 March 1942 Sauckel was appointed Plenipotentiary for Allocation of Labor. What were the reasons for Sauckel's being chosen for this position?

LAMMERS: The Führer was of the opinion that the allocation of labor had not been pushed with the necessary intensity by the Reich Minister for Labor and that this task would, therefore, have to be transferred to a particularly energetic person.

DR. SERVATIUS: Did the Führer demand the use of foreign workers with particular emphasis?

LAMMERS: He demanded that all laborers who could possibly be made available should be used.

DR. SERVATIUS: Particularly with reference to foreign laborers?

LAMMERS: Yes, foreign countries were also mentioned in that connection, because at home we had exhausted all possibilities.

DR. SERVATIUS: Did you receive the assignment of informing the highest offices in the occupied territories of the demand that they do their best to support Sauckel's task?

LAMMERS: That happened very much later. First the appointment of the Plenipotentiary for Allocation of Labor took place and was announced to all important offices. I do not think I added any particular demand to that. But at the beginning of 1944 a conference took place at the Führer's headquarters dealing with the program of labor allocation for the year of 1944. At the end of that conference, during which Sauckel had been given a number of injunctions expressed in definite figures, I had the task of writing to all offices concerned and telling them that they should support the task Sauckel had just been given, with all the powers at their disposal.

DR. SERVATIUS: You are talking about a meeting at the beginning of January 1944. An extensive report which you prepared on that is available. According to this report, Sauckel said during that meeting that with regard to the number of foreign laborers he would find it difficult or perhaps even impossible to fulfill the demands made by the program. What was the reason he gave for that?

LAMMERS: The statement is correct, and the reason he gave was that the executive power necessary for the carrying out of that task was lacking in the various sectors. He said that if he were to fulfill his task, then under all circumstances he should not have to

rely on a foreign executive power, as, for instance, was the case in France, but that there must be a German executive power which supported his actions.

DR. SERVATIUS: Did he not talk about the fact that fulfillment of the demand was impossible because of the danger of the partisans?

LAMMERS: He pointed out these difficulties repeatedly, namely, the partisan danger; and it was regarded as self-evident that no recruitment of labor could be carried out by him in territories where the partisans were still fighting.

DR. SERVATIUS: Did he demand the pacification of these agitated partisan territories and demand executive powers in that connection?

LAMMERS: Yes, that is correct.

DR. SERVATIUS: Did he wish to have the authorities protected against these resistance movements?

LAMMERS: Yes, he wanted the local office to take action, so that he would have a free hand to work.

DR. SERVATIUS: I am quoting one sentence from the report, and I want you to explain to me how that is to be understood. There it says:

"The Reichsleiter of the SS explained that the forces at his disposal were extremely small, but that he would try by increasing them and by using them more intensively to win success for Sauckel's actions."

How is that to be understood?

LAMMERS: That referred mainly to the Russian territories, in which there were partisans, and Herr Sauckel thought that he could not be active there unless these territories were cleared up. Himmler, who was present, promised to do his best, but he had misgivings as to whether enough police battalions or other forces would be at his disposal.

DR. SERVATIUS: Then it is right to say that it was a question of safeguarding the authorities, of safeguarding the territories, and not a transfer of the recruiting to the SS?

LAMMERS: A transfer of this recruiting to the SS, as such, was not provided. The German executive power demanded by Sauckel referred in every case to whatever executive power was available. In France, for instance, it was not the SS but the field command who had to look after that; and in Russia it was necessary, in part, for the police battalions to pacify the partisan regions.

DR. SERVATIUS: Now, I have a question regarding the Leadership Corps. A document has been presented here under Number



D-720. It bears the signature of Gauleiter Sprenger and has no date, but it obviously dates from the spring or the beginning of 1945. In this letter there is mention of a new Reich health law, and it is supposed to contain a ruling on people suffering from heart and lung diseases, who are to be eliminated. It says that this law is to be kept a secret for the time being. On the strength of that law these families could no longer remain among the public and could not produce any offspring. Did you know anything about that law?

LAMMERS: I did not understand the word. Did you say insane or what sort of sick people?

DR. SERVATIUS: It is a Reich health law referring to people suffering from heart and lung diseases.

LAMMERS: I know nothing whatsoever about that law.

DR. SERVATIUS: I did not understand you.

LAMMERS: I know nothing about it.

DR. SERVATIUS: Would you have had to know about it?

LAMMERS: Yes, the Minister of the Interior would have had to know about it. Health matters were dealt with in his ministry. It never reached me.

DR. SERVATIUS: Thank you. I have no further questions.

DR. GUSTAV STEINBAUER (Counsel for Defendant Seyss-Inquart): Witness, one day after the German troops marched into Austria a law was published—on 13 March 1938—which has the heading, "Law for the Reunion of Austria with the German Reich." Seyss-Inquart and his Government were surprised by the contents of this law. I now ask you whether you know the details as to how this law was decreed in Linz on 13 March 1938.

LAMMERS: Like every other radio listener I heard about the march of German troops into Austria through the radio. And since I assumed that I might be needed I went to Vienna. At that point the law had already been signed and published. I did not participate in the drafting of this law; the Minister of the Interior and State Secretary Stuckart drafted that law. I did not work on it at all, because I did not even know that this action was to take place.

DR. STEINBAUER: Did these gentlemen you just mentioned tell you, perhaps, why this law was published so precipitately?

LAMMERS: It was the wish of the Führer.

DR. STEINBAUER: Thank you. At the same time Dr. Seyss-Inquart was named an SS-Obergruppenführer, not an SS general, as the Prosecution have stated and in addition the Führer promised him that within a year he would be made a member of the Reich

Government. In 1939 he actually did become Minister without Portfolio. Did Seyss-Inquart in his capacity as an SS-Obergruppenführer and as Minister without Portfolio carry out any functions of any kind?

LAMMERS: As far as I know, Seyss-Inquart did not become Obergruppenführer but Gruppenführer. That was merely an honorary rank which was given him. He had no authority in the SS and he never served in the SS, as far as I know. He merely wore the uniform and later he became Obergruppenführer.

DR. STEINBAUER: In other words, this was purely an honorary rank, a matter of uniform, as you correctly say?

LAMMERS: Yes, a sort of honorary rank.

DR. STEINBAUER: Thank you.

One year later Seyss-Inquart was appointed Reich Commissioner for the Netherlands, and in the Law Gazette for the Netherlands *Verordnungsblatt* as well as in the *Reichsgesetzblatt*, this appointment was published. Do you know whether, apart from this published decree which appointed him Reichsstatthalter he was also given a duty within the framework of the Four Year Plan?

LAMMERS: From the moment of his appointment as Reich Commissioner for the Netherlands, Seyss-Inquart experienced the same limitations of authority as I described yesterday in connection with Herr Frank and Herr Rosenberg. In other words, certain powers were held in reserve for the Delegate for the Four Year Plan who everywhere exercised comprehensive command powers. To this extent his position was limited from the very beginning.

DR. STEINBAUER: What was the position of the German police in the Netherlands? Was the German police directly under the command of the Defendant Seyss-Inquart or was it under the Reichsleiter SS Himmler?

LAMMERS: The conditions here are exactly the same, or similar, as I described them yesterday in connection with the Government General. The Higher SS and Police Leader was at the disposal of the Reich commissioner but his technical instructions came from Himmler.

DR. STEINBAUER: Thank you.

Do you, Witness, recollect that at the beginning of 1944 you forwarded to the defendant, in his capacity as Reich Commissioner for the Netherlands, an order from the Führer according to which he should draft 250,000 workers in the Netherlands, and that Seyss-Inquart refused this?

LAMMERS: This is the letter which I mentioned previously when I was being asked questions in connection with Sauckel. It is

a circular letter in which everybody was asked to support Sauckel's action and individual offices were given orders regarding the numbers of workers they were to supply. However, I cannot remember whether the number was 250,000 workers in Seyss-Inquart's case. But I do know that Seyss-Inquart told me that he had considerable misgivings about getting the number ordered of him. He wanted to take up these misgivings with the Führer.

DR. STEINBAUER: Thank you. I have no further questions.

DR. HANS LATERNSEER (Counsel for the General Staff and High Command of the German Armed Forces): Witness, did Hitler come to power in 1933 with the help of the Reichswehr, that is, was there any military pressure employed at that time?

LAMMERS: I myself did not participate directly in the seizure of power. I cannot tell you, therefore, the exact details. At any rate, nothing is known to me about the Reichswehr's having had any influence on the seizure of power. I assume that if that had been the case one would have heard about it.

DR. LATERNSEER: In 1934 there followed co-ordination of the offices of the head of the State and Reich Chancellor in the person of Hitler. Could the military leaders have refused to swear the oath of allegiance to Hitler without violating a law?

LAMMERS: The law regarding the head of the State was decreed constitutionally and thereby the Führer became the Supreme Commander of the Armed Forces. Any possibility of resisting did not exist. That would have been pure revolt; it would have been mutiny.

DR. LATERNSEER: Did you ever hear that military leaders made proposals regarding the starting or the preparation of an aggressive war?

LAMMERS: No, not in the least.

DR. LATERNSEER: It is well known that Hitler did not permit military leaders any influence upon his political decisions. Do you know of any statements made by Hitler in which he denied the generals the right to a political judgment?

LAMMERS: From the military point of view the Führer praised the generals as a group and also individual generals very highly. As far as politics were concerned, he was always of the opinion that they knew nothing about politics and that one should, as far as possible, keep them away from a position where political matters had to be decided.

DR. LATERNSEER: It is also known that Hitler would not suffer any contradiction. Was not that the real reason for Blomberg's dismissal and the dismissal of Fritsch and Beck—the fact that they repeatedly contradicted him?

LAMMERS: Yes, I could assume that such personal differences in the end did bring about the dismissal of Schacht, Blomberg, Neurath, and Fritsch. But I was never present at such conferences and I cannot therefore report what was said. But I do think that they often contradicted the Führer.

DR. LATERNSEER: Did Hitler distrust the generals, particularly those of the Army?

LAMMERS: One cannot generalize about that. The Führer was rather reserved in his behavior toward most people. He told each one only what actually concerned him. If you call that distrust, then this distrust was present in his relations with almost all ministers and generals, for nobody was told any more than the Führer wanted him to hear.

DR. LATERNSEER: Among the circle of persons who had Hitler's complete confidence was there any military leader?

LAMMERS: I do not believe so. I do not know of one.

DR. LATERNSEER: Now one last question: What was the reason for putting most of the occupied territories under Reich commissioners and only a few of them under military administration?

LAMMERS: As a rule it was the Führer's wish that occupied territories be administered by political leaders. He considered generals unsuited for that task, because he accused them—I might put it this way—of having no political instinct.

DR. LATERNSEER: Was it not the plan to replace the military administration in Belgium by a civilian commissioner even before 1944?

LAMMERS: That had long been provided for. Preparations had already been made, but the Führer could not decide to put it in force, because he had always been told that in the case of Belgium there were important military reasons for not establishing a civilian administration, since Belgium might possibly become again a zone of combat. So the decision was postponed a year and still longer.

DR. LATERNSEER: Thank you. I have no further questions.

THE PRESIDENT: Do the Prosecution wish to cross-examine?

MAJOR F. ELWYN JONES (Junior Counsel for the United Kingdom): Witness, there is one matter upon which I want to ask you—as to the powers of Reich ministers under the Constitution of Nazi Germany. It appears, from your testimony, that they were men with very little authority, or jurisdiction, or power of command of any kind, that they were men of straw. Is that so?

LAMMERS: Well, to say no authority goes too far. I mean in respect to politics...

MAJOR JONES: But, they were of an extremely limited character. That is what you are saying to the Tribunal, isn't it?

LAMMERS: In the main they were administrative chiefs in their ministries. They were not political ministers who were consulted in regard to large-scale political matters.

MAJOR JONES: Less authority than the ministers of Germany had under the previous Constitution?

LAMMERS: That, beyond doubt, was the case, for under the former Constitution votes were taken and the minister could at least give expression to his authority by voting against something in the Cabinet.

MAJOR, JONES: I am now going to put to you some observations which you yourself made in 1938 about the powers of ministers in the Führer's State. I am referring to Document 3863-PS. This is your comment on the Staatsführer in the Third Reich:

"From this basic total concentration of supreme power in the person of the Führer there results, however, no excessively strong and unnecessary centralization of administration in the hands of the Führer. In my general elaborations on the basic concept of the Führer State I have already pointed out that the respect for the authority of the subordinate leader" —Unterführer—"by those beneath him forbids interference with every one of his individual orders or measures. This principle is applied by the Führer in his governmental leadership in such a manner that, for example, the position of the Reich ministers is actually a much more independent one than formerly, even though today the Reich ministers are subordinate to the Führer's unlimited power of command, in respect to their entire official sphere and in respect to every individual measure and decision on the most trivial matters. Eagerness to bear responsibility, resolution, energy, coupled with initiative and real authority, these are the qualities which the Führer demands above all of his subordinate leaders. Therefore he allows them the greatest freedom in the execution of their affairs and in the manner in which they fulfill their tasks. He is far from exercising petty or even nagging criticism."

That is a picture of the power of Reich ministers, which is very different from the picture you are painting to the Tribunal, is it not?

LAMMERS: In my opinion there is not the least contradiction. All I am saying here is that every minister normally had no say in respect to large-scale politics. In his own sphere however, he was the supreme administrative chief. I explained here that as a subordinate leader he had the widest powers, insofar as the Führer

had left him those powers, and that the Führer did not narrow-mindedly interfere with these powers. He did not think of doing that. This concerns matters of second- and third-grade importance; large-scale politics were not discussed here.

MAJOR JONES: You see, your picture of the administration of this vast State of Nazi Germany is a picture of one man deciding all principal matters himself out of his own intuitive powers. Is that the picture you seek to present to this Tribunal?

LAMMERS: Yes. The Minister was the supreme leader in his own sphere and insofar as he was not limited, he had greater powers than any minister previously had had, because the Führer did not interfere in small matters.

MAJOR JONES: In the case of the Defendant Funk, for instance, you say that he was a small man with no authority, with no influence upon the decisions of affairs. Is that so?

LAMMERS: Regarding the large-scale political issues he had no authority. But within his department he had considerable influence. But those were matters of second- or third-grade importance.

MAJOR JONES: But decisions, but as to profound important economic questions like the amount of wealth that was to be extracted from the occupied territories, the Führer's decisions were based upon the representations and recommendations of ministers like Funk, were they not?

LAMMERS: I do not know that. The finance policy in occupied territories was handled by the Minister for the Eastern Territories or the Reich commissioners together with the Reich Finance Minister.

MAJOR JONES: But as to decisions on economic matters concerned with the occupied territories, like recommendations as to occupation costs, as to the technique of purchasing on the black market, men like Funk had to give recommendations for determination of policy on these matters, did they not?

LAMMERS: He co-operated, yes, but he had no authority as Reich commissioner in the occupied territories. The Reich commissioner was directly under Hitler.

MAJOR JONES: All these ministers co-operated in their sphere and were indispensable to the running of this Nazi State, were they not?

LAMMERS: Yes, of course, co-operation was a necessity. This does not mean that Funk had power to issue orders in the occupied territories. He certainly had none.

MAJOR JONES: You, so far as Funk is concerned, were concerned with making quite clear what his position was in the State. Do you recollect that you were concerned with clearing up the

matter as to whether he, Funk, was directly subordinate to the Führer or not? Do you remember that?

LAMMERS: Yes, of course Funk, as Minister, was under the Führer.

MAJOR JONES: And he was advising the Führer himself, was he not?

LAMMERS: He very rarely saw the Führer.

MAJOR JONES: But, in the vital sphere of the financing of rearmament, for instance, he had important decisions to communicate to the Führer and advise the Führer upon, did he not?

LAMMERS: I do not know to what extent the Führer sent for him for I was not present at conferences regarding armament credit and rearmament.

MAJOR JONES: I want to ask you one further question regarding ministerial matters. Ministers without portfolio did continue to receive communications as to the Reich Cabinet, did they not?

LAMMERS: They received texts of subjects up for discussions.

MAJOR JONES: The Defendant Frank, for instance, was a Minister without Portfolio?

LAMMERS: Yes.

MAJOR JONES: He continued to receive communications in his capacity as a Minister without Portfolio?

LAMMERS: He received all the texts which were received by other ministers, provided there was a general distribution.

MAJOR JONES: And indeed, when he was the Governor General of the Government General, he maintained a ministerial office to deal with the incoming matters of the Reich Cabinet?

LAMMERS: Who are you talking about? Frank?

MAJOR JONES: I am now talking about the Defendant Frank, yes.

LAMMERS: Frank had an office in Berlin where ministerial matters were delivered to him.

MAJOR JONES: So that the Reich Cabinet did not actually meet, but it continued to exist, did it not?

LAMMERS: The Reich Cabinet existed only for those legislative and administrative matters which could be handled in writing and by means of circulating letters.

MAJOR JONES: And the members of the Reich Cabinet, like Frank, continued to receive communications as to the legislative

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tasks and performances of the Reich Cabinet, even though they were not available for conferences or meetings?

LAMMERS: They got such communications.

MAJOR JONES: I think it is time to break off.

THE PRESIDENT: Yes.

*[The Tribunal recessed until 1400 hours.]*



### *Afternoon Session*

MAJOR JONES: Witness, I want to ask you some questions about the Defendant Frank. Frank is a friend of yours, is he not?

LAMMERS: Frank?

MAJOR JONES: Yes.

LAMMERS: No, I have no very close connection with Frank.

Before answering this question, I would like permission to return to a document which you submitted to me previously, and which I have just now been able to finish reading. I would like to say just two sentences in connection with that document.

MAJOR JONES: If the Counsel for the Defense desire you to return to it, I have no doubt they will draw your attention to the matter in due course.

Will you now deal with the question that I put to you on the Defendant Frank? You say he is not a friend of yours?

LAMMERS: I did not know him particularly well, and I had no closer relation to him than with any of the other people in the Reich Government.

MAJOR JONES: Would it be right to say, like yourself, he was one of the leading Nazi jurists?

LAMMERS: Well, I never really thought of myself as a leading National Socialist jurist.

MAJOR JONES: Are you saying that you were not a leading jurist, or that you were not a National Socialist?

LAMMERS: I considered myself in the first place as a lawyer, an expert on constitutional law, which I have been for many years, in fact, since the year 1920 and under other governments; then I joined the National Socialist Party and naturally in my position in the National Socialist State, I made every effort to propagate the National Socialist idea of law.

MAJOR JONES: And you have said that so far as Hans Frank was concerned, he was a jurist who opposed the arbitrary use of power by the Police.

LAMMERS: He did that in some of his speeches; and the Führer did not approve of these speeches.

MAJOR JONES: He was a man who believed in fair trials, was he?

LAMMERS: What kind of trials do you mean? I cannot hear you; there is such noise.

MAJOR JONES: Criminal trials.

LAMMERS: I did not hear the word.

MAJOR JONES: He was in favor of fair trials and he resisted the arbitrary power of the SS? That is your evidence, is it?

LAMMERS: He told me that repeatedly, and he frequently expressed this view in his speeches, too.

MAJOR JONES: And you say he was a man who favored a liberal administration in the territory of which he was Governor General? Is that so?

LAMMERS: I am sorry, but I cannot follow this. There is so much noise that I can barely hear half of what you are saying; the other half is completely lost.

MAJOR JONES: Well, we will try again. Did you ever hear of the "AB Action," for which Frank was responsible in the Government General?

LAMMERS: That is an action of which I know nothing at all. Someone mentioned this name to me about a week ago and said that Frank was accused of this AB Action. I do not know of any AB Action.

MAJOR JONES: You were getting frequent reports by Frank as to the administration of his territory, were you not?

LAMMERS: Reports were occasionally sent in.

MAJOR JONES: Are you saying that Frank never informed you about the AB Action?

LAMMERS: Yes. I do not know what the AB Action is.

MAJOR JONES: I will remind you. It was an action which resulted in the slaughter of the flower of the Polish race, of the Polish intelligentsia.

LAMMERS: I know nothing about such an action.

MAJOR JONES: If you will look at the Document 2233-PS, which has already been exhibited as USSR-223, and which is Frank's diary, you will see the history of this action and perhaps you will then remember something of the circumstances of it.

LAMMERS: What page is that, please?

MAJOR JONES: On Page 8 of the annex to that text. You will see on that page that the action started on the 16th of May with a conference at which Frank, the Governor General, and Reich Minister Dr. Seyss-Inquart, Secretary of State Bühler, SS Brigadeführer Streckenbach, and a Colonel Müller were present. You will see there that Frank decreed, with immediate effect, that the task of carrying out an extraordinary pacification program be given to the Chief of the Security Police, to commence immediately. The

more important details of the action were then discussed, and Brigadeführer Streckenbach was formally given the necessary authority by the Governor General. The Governor General ordered a detailed report to be made on the 30th of May.

Then, I want you to look at Page 2 of that text, at a report of the conference on the 30th of May, where you, and what is more important, this Tribunal, may be able to judge what kind of jurisprudence Nazi jurists believed in.

You will see, on Page 43 of the English text of 2233-PS, a report of the Police conference on the 30th of May, where Frank and Krüger and others were present.

LAMMERS: I was never present at these conferences of the Government.

MAJOR JONES: I want you to see how far removed Frank, the apostle of decency in administration, was from the true Frank that was Governor General of Poland. You will see there that Frank states, "If I had not the old Nazi guard of fighters of the Police and SS here in the country, with whom could we then carry out this policy?" The report, which the Tribunal is already familiar with, goes on to describe how, now that the German aggressions in the West were in full swing, it was possible for Frank to go through with this action against the Polish intelligentsia.

LAMMERS: If the entries in the Governor General's diary do not agree with what I gathered from the speeches which he made in public, I cannot make any comment. I do not know what he said about this. It may be that many of his speeches contradict other speeches which he made at a different time. What I said concerned only those speeches of which the Führer disapproved, to which he objected, and which led to Frank's being forbidden to make speeches or to have them printed. I was referring to those speeches. I cannot say at the moment what other speeches the Governor General made and what he entered in his diary.

MAJOR JONES: Let us be quite clear. Do you know that the regime of Frank in the Government General was a murderous one?

LAMMERS: I never heard anything about that.

MAJOR JONES: Did you receive any reports from him, or from other sources, of misgovernment in the Government General?

LAMMERS: Complaints about misgovernment in the Government General came in frequently from Frank himself as well as from other departments against Frank.

MAJOR JONES: Did you have knowledge of the utter ruthlessness of Frank's methods in the Government General?

LAMMERS: I only heard half your question.

MAJOR JONES: You were receiving reports from Frank as to what he was doing in the Government General, were you not?

LAMMERS: Yes. Reports came in frequently and I immediately passed them on to the Führer as transmit matters. Most of them went to Reichsleiter Bormann or the adjutant office of the Führer. These were reports...

MAJOR JONES: Just a moment. If you deal with the questions I put to you, we shall get on much faster, you know. Just answer the question I put, briefly. I am going to put to you one message which Frank's diary indicated that you received. At Page 41 of the English text of Frank's diary, there is this entry for the 5th of August:

"The Governor General sends the following teletype to Reich Minister Dr. Lammers:

"The city of Warsaw is for the most part in flames. Burning down the houses is also the surest way of depriving the insurgents of hiding places. After this rising and its suppression, its deserved fate of complete annihilation will rightfully overtake Warsaw or be imposed upon it."

Do you recollect receiving that teletype?

LAMMERS: To my knowledge this report did come in and was immediately transmitted to the Führer. However, I was not concerned in the action itself; that was a military measure and military reports normally went straight to the Führer. In all probability I passed on this teletype message not only to the Führer, but probably also to the Chief of the OKW.

MAJOR JONES: I am not concerned with the action you took in these circumstances; I am concerned with your knowledge, because you have denied to this Tribunal, time and time again, that you ever knew anything of these abominations that were going on under the Nazi regime. So just deal with the question of your knowledge at the moment.

You have said...

LAMMERS: I know that this report was received...

MAJOR JONES: And that was a characteristic Frank message, was it not?

LAMMERS: And that an annihilation action had been decreed in Warsaw and that there was fighting in Warsaw. After all, I had no right to give orders to the Governor General. I could only transmit his report to the Führer. The report was meant for the Führer and not for me personally.

MAJOR JONES: You say that Frank was opposed to the institution of concentration camps. That is your evidence, is it not? Is it your evidence that Frank was opposed to concentration camps?

LAMMERS: Yes. Frank himself told me that in principle he was opposed to internment in concentration camps, for he agreed with my view that such a proceeding must at least have a legal basis.

MAJOR JONES: That is what he told you?

LAMMERS: Yes, he told me that. Yes.

MAJOR JONES: Just let me read to you one brief extract from his diary to show why he disapproved of concentration camps. I am reading from Page 45 of the diary. He is referring to the Polish intelligentsia, and he says:

"First, we do not need to deport these elements to the concentration camps in the Reich, because then we should only have annoyance and unnecessary correspondence with their families; instead we shall liquidate matters in the country itself."

Then he goes on to say that:

"...we do not intend to set up concentration camps in the real sense of the term, here in the Government General. Any prisoners from the Government General who are in concentration camps in the Reich must be put at our disposal for the AB Action, or dealt with there. Any one who is suspected here must be liquidated immediately."

That is why Frank opposed the institution of concentration camps. He believed in immediate murder, did he not?

LAMMERS: It may be that Frank's diaries and his actions do not agree with what he told me, but I only know what he told me to be his opinion of concentration camps. I do not know what he wrote in his diaries nor do I know what he did in practice, I had no right to exercise supervision over the Government General.

MAJOR JONES: You have spoken of the battle between Frank and various other Reich commissioners and Reich ministers and the SS. I suggest to you that the battle between Frank and the SS Brigadeführer Krüger was a battle for power, a battle between personalities, and was not connected in any way with Frank's desire to see decency and justice determine the administration of the Government General.

LAMMERS: If you mean that Frank's statements to me do not agree with his actions, you must question Herr Frank on the point. I am not responsible for his actions. I can say only what Herr Frank told me.

MAJOR JONES: You see, you were receiving reports not only from Frank himself but from the SS, were you not?

LAMMERS: A great many reports came in to me and were passed on in the routine way, for I was but a channel for such

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reports. In any case, reports from the SS in most cases did not go through my office.

MAJOR JONES: You were another of these highly placed post offices on which the Nazi Reich was founded, were you?

LAMMERS: I am sorry, I did not understand that.

MAJOR JONES: Do you remember communicating with Himmler about the situation in the Government General?

LAMMERS: Yes, certainly. I know that Himmler would have liked to remove Governor General Frank from the Government General. He would rather have had some one else as Governor General.

MAJOR JONES: You submitted a report to Himmler on the strength of a discussion you had had with SS General Krüger, did you not?

LAMMERS: I cannot recall a discussion with General Krüger at the moment, unless I am given more exact information as to when it took place.

MAJOR JONES: Will you just look at the Document 2220-PS, which is Exhibit USA-175. That is your report to Himmler. You will see that that report is dated the 17th of April 1943, addressed to Himmler, with reference to the situation in the Government General. I just read some of it; it has not been read before:

"Dear Herr Reichsführer:

"We had agreed at our conference on 27 March of this year that written material should be prepared on the situation in the Government General, on which our intended mutual report to the Führer could be based."

That was the mutual report of the SS and yourself, and then the next paragraph reads, "The material..."

LAMMERS: That was a report made on instructions given me by the Führer to investigate certain complaints made against Frank. A series of complaints against Frank had been received and the Führer had given instructions that Himmler and I should investigate the matter. That is the matter we are concerned with now.

MAJOR JONES: And you and your colleague, Himmler, you see, were actively interested in this matter. I just want you to look further at this report. You will see that in the report itself it is headed, in Paragraph A:

"The tasks of the German administration in the Government General.

"The German administration in the Government General has to fulfill the following tasks:

"1. For the purpose of guaranteeing the food supply for the German people, to increase agricultural production and to collect it as completely as possible, to allot sufficient rations to the native population occupied with work important for the war efforts, and to deliver the rest to the Armed Forces and the homeland."

Then it goes on to deal with the difficulties of extracting sufficient manpower and wealth from the territory of the Government General for the benefit of the Third Reich. And then towards the end it deals specifically with the utilization of manpower, and it is to that paragraph that I desire to draw your particular attention. Have you found the paragraph headed, "Mobilization of manpower," dealing with the difficulties that the administration in the Government General was confronted with? I draw your attention to it because it contains this sentence: "It is clear that these difficulties have been increased by the elimination of Jewish manpower."

LAMMERS: Where is that, please?

MAJOR JONES: It is in the paragraph headed, "Mobilization of manpower."

LAMMERS: Yes, but that is not my report.

MAJOR JONES: But you said that in your covering letter that the memorandum was checked with SS Obergruppenführer Krüger, who agreed with it in full. You recollect in your covering letter you indicated that this memorandum had received your consideration. Now, whether you wrote that or not, is not the matter that I am concerned with at the moment. What I want you to explain to the Tribunal is, first of all, did you appreciate that this report contained the sentence, "It is clear that these difficulties of manpower have been increased by the elimination of Jewish manpower?"

LAMMERS: May I please be allowed time to read this document through? I cannot reply to documents several pages long unless I have read them. I find it quite impossible; and I ask for time to read this report which is several pages in length.

MAJOR JONES: You have the time required; but I only want you to concern yourself with one sentence, you see. You can take it that in the last paragraph but one of that report there appears this sentence about the elimination of Jewish manpower, and what I am going to suggest to you is that...

LAMMERS: No—where is that? I have not read this sentence. I have not yet found the place. Where can I find it? Is it at the top or at the bottom of the page? If I may read the whole page, I will find the sentence; I will need a few minutes for this. Can you

give me the approximate place? This is evidently Krüger's report and he probably means the further evacuation of the Jews to the East. I do not know what you mean by "elimination." With the best intentions I am not in a position to give an explanation on the spur of the moment of one sentence taken out of a context of 14 pages. It is absolutely impossible.

MAJOR JONES: Are you saying that elimination of Jewish manpower is to be translated as emigration of Jewish manpower?

LAMMERS: I do not know. I will have to read the complete document in order to give you an explanation of the report. There are 14 closely written pages in it, not written by myself; and I do not know what the connection is.

MAJOR JONES: You know, do you not, that Hans Frank himself was in favor of a policy of extermination of the Jewish people?

LAMMERS: I do not know whether he held this view. He told me exactly the opposite, and as a witness I can only tell you what he said to me and not what he said elsewhere.

MAJOR JONES: You see, this Tribunal has had read to it extracts from Frank's diary in which he says that, "My attitude towards the Jews..."—and this is found at Page 12 of the German copy—"My attitude towards the Jews is such that I expect them all to disappear." And he says, as to the 3<sup>1</sup>/<sub>2</sub> million Jews in the Government General, that, "One cannot shoot them or poison them, but we will be able to take steps in order to successfully annihilate them. The Government General must become as free of Jews as the Reich is."

Are you saying that Frank did not express similar views to you?

LAMMERS: If Frank made these entries in his diary and if he actually did say that, then it contradicts what he told me. That is all I have to say on that point.

MAJOR JONES: Did you know that Frank's diary indicates that on the 9th of September 1941 there were 3<sup>1</sup>/<sub>2</sub> million Jews in the Government General and when he makes an entry on the 2d of August 1943, he says that only a few labor companies are left? Did you not know that?

LAMMERS: I do not know that this happened because he told me nothing about it. He himself must account for what he said in his diary. He himself must establish whether he did it or not. I knew nothing about these things.

MAJOR JONES: In view of your translation of "elimination" as "emigration," Frank says in connection with those millions that this Tribunal knows were murdered, "All the others have, let us



say, emigrated." Are you using the word "emigrated" in an equally cynical and brutal sense as that?

LAMMERS: I am not in a position to comment on Herr Frank's diary. Herr Frank himself will have to do that.

MAJOR JONES: You, Witness, were from the beginning of this tale of terror involved in assisting in drafting legislation towards achieving the end of racial persecution, were you not? Is that not so? Did you not put your signature to the Führer's decree empowering Himmler to carry out the necessary measures to eliminate from the territory of the Reich racial elements that you, as Nazi, did not approve?

LAMMERS: I do not recall ever signing anything like that.

MAJOR JONES: Well, I will draw your attention to it. It is Document 686-PS, which is Exhibit USA-305. It is the decree of Hitler to strengthen German folkdom. That is the title of it. It is dated the 7th of October.

LAMMERS: Yes, I know of the decree.

MAJOR JONES: I thought it would not surprise you.

LAMMERS: But this says nothing about what you asserted.

MAJOR JONES: Just look at the first clause of it. It reads:

"The Reichsführer SS is responsible, in accordance with my directives:

"1. For finally returning to the Reich all German nationals and racial Germans abroad;

"2. For elimination of the harmful influence of such alien parts of the population as represent a danger to the Reich and the German people."

Then it goes on with, "Formation of new German settlement districts, by resettlement..." and it says:

"The Reichsführer SS is authorized to take the necessary measures to carry out his duties."

You signed that decree, did you not?

LAMMERS: It is correct, but it says nothing about killing Jews. It speaks of the elimination of a harmful influence exercised by alien populations. There is no mention of the elimination of aliens, but only of the elimination of the influence of alien elements of the population; the removal of a person's influence does not mean the removal of the person himself.

MAJOR JONES: Are you, as the head of the Reich Chancellery, the man who knew all the secrets of the Third Reich, saying to this Tribunal that you had no knowledge of the murder of millions and millions who were murdered under the Nazi regime?

LAMMERS: I mean to say that I knew nothing about it until the moment of the collapse, that is, the end of April 1945 or the beginning of May, when I heard such reports from foreign broadcasting stations. I did not believe them at the time, and only later on I found further material here, in the newspapers. If we are speaking now of the elimination of a harmful influence that is far from meaning annihilation. The Führer did not say a word about murder; no mention was ever made of such a plan.

MAJOR JONES: I now want you to turn your attention to the Defendant Rosenberg. You have told us that the first you heard of several of the major military operations of the Third Reich, was through the newspapers. Was it from the newspapers that you heard of the Nazi plans to invade the Soviet Union?

LAMMERS: I learned of the war of aggression against Russia only when everything was complete. The Führer never said a word about a war of aggression against Russia before that. He spoke only of military complications with Russia which might be imminent, but I did not interpret that as meaning a war of aggression against Russia.

MAJOR JONES: Did you know that the war between Nazi Germany and the Soviet Union was a defensive war on the part of Nazi Germany?

LAMMERS: The Führer never told me anything except what I have already stated here, that troop concentrations had been observed which led us to the conclusion that military complications with Russia might be expected. "I want to be prepared for any eventuality, and therefore Herr Rosenberg is to deal with Eastern questions." That was all I heard and I was completely unaware of the fact that a war of aggression was to be waged against Russia.

MAJOR JONES: Just one minute.

LAMMERS: From various incidents it could be inferred that we had to expect an attack; at least, it was represented to us in that way, as far as we were informed.

MAJOR JONES: But you—you know, Witness, that as early as the 20th of April 1941 Hitler was planning and plotting the details of action against the Soviet Union. Just look at Document 865-PS, Exhibit USA-143, will you? That, as you will see, is a decree of the Führer, dated the 20th of April 1941, and let me remind you that the invasion of the Soviet Union by Nazi Germany did not take place until the 22d of June. On the 20th of April you signed that decree in which Hitler named Rosenberg as "My Commissioner for the central control of questions connected with the East European region."

LAMMERS: Yes, that is correct. I have never testified to anything else. That was the assignment, the first assignment which Rosenberg was given, and on this occasion the Führer spoke of possible military complications with Russia and granted Rosenberg his authority.

MAJOR JONES: Just a minute. Answer the question I am putting to you at the moment. You can give your explanations later. You look further down that Document 865-PS. You see it is a letter from you to Keitel, dated the 21st of April, in which you say:

“Herewith I am sending you a copy of a Führer decree of the 20th of this month by which the Führer appointed Reichsleiter Rosenberg as his Commissioner for the central control of the question of the East European region. In this capacity, Reichsleiter Rosenberg is to make all the necessary preparations for a possible emergency with the greatest speed.”

Are you saying that these activities of yours and Rosenberg, at that time, were not connected with aggressive plans on the part of Nazi Germany?

LAMMERS: I most certainly will not say that. By an emergency the Führer meant, as I said before, that the Führer believed that there might be war with Russia. That was the emergency which led to Rosenberg's assignment. There is not a word here about a war of aggression and, indeed, there was no question of it.

MAJOR JONES: You know that Rosenberg was in communication with other government departments of the Third Reich, in connection with this preparation for aggression against the Soviet Union, weeks before the invasion took place; do you not?

LAMMERS: Whom is he supposed to have influenced? I did not hear whom he is supposed to have influenced.

MAJOR JONES: Perhaps I was not understood. He was collaborating with other departments of the Third Reich weeks before the invasion happened.

LAMMERS: He may have worked with other departments in carrying out his assignment, but I do not know to what extent or with what purpose. Nor do I know what other assignments he was given by the Führer.

MAJOR JONES: At least you do know that Hitler made clear to Rosenberg before he took office, what the main principles of Nazi policy towards the conquered territories of the Soviet Union was to be, do you not? You attended the conference of Hitler on the 16th of July 1941, when he set out his principles and aim with regard to the Soviet Union?

LAMMERS: This happened after the outbreak of war but not before it. Previous to this, there was never any discussion about a war of aggression in my presence.

MAJOR JONES: You said that Rosenberg was a man who believed again in liberal treatment for those whom the Nazi armies conquered, but you were at Hitler's conference in July 1941, in the very first weeks of this man's responsibility, and you heard Hitler in that conference enunciating a program of terror and brutality and exploitation, did you not?

LAMMERS: On 16 July Herr Rosenberg had already raised objections to it.

MAJOR JONES: But they were doubts which did not cause him to leave his post and he continued until the Red Army made his position somewhat uncomfortable in the East, did he not?

LAMMERS: Yes, but he always followed principles of moderation. I have discussed Rosenberg's activities only generally. I cannot testify to all the special measures which he took and I can but tell you what Rosenberg told me, the complaints he made to me personally and what he described to me as his aims. If he acted at all differently, I know nothing about it.

MAJOR JONES: You were familiar with the conflict between Rosenberg and Koch, the Reich Commissioner for the Ukraine, were you not?

LAMMERS: Yes, I know all about that. Rosenberg was always in favor of moderation and reasonable application of all political measures. Koch inclined towards a more radical solution.

MAJOR JONES: When you say a "more radical solution," what do you mean by that, "mass murder"?

LAMMERS: No, I do not mean that at all.

MAJOR JONES: But you did in fact know that Koch was a murderer, did you not?

LAMMERS: That Koch was a murderer?

MAJOR JONES: Yes.

LAMMERS: I do not know the particulars. I had no control of it.

MAJOR JONES: I will just draw your attention to them. Look at the Document 032-PS, which will be Exhibit GB-321, the document which has not yet been exhibited. That is a report dated the 2d of April 1943, from Rosenberg to Himmler, with a copy to you. It is a report on the murder of the people of the Zuman wooded area so that there could be established a place for Reich Commissioner Koch to hunt in.

LAMMERS: I know of this complaint and I even submitted it to the Führer. Herr Rosenberg explained that Reich Commissioner Koch had had a large wooded area cleansed of all towns and villages too because he wanted to hunt there. That was submitted by Rosenberg to the Führer as a complaint.

MAJOR JONES: And this word "cleansed"—does that mean emigration or does that mean murder?

LAMMERS: "Cleanse" means to free the area.

MAJOR JONES: I do not want you to shut this document. I just want you to look at this document because you have denied knowledge that Koch was a murderer. In Paragraph 2 of the report you see this:

"I have just received the following report from an old Party comrade who has worked for 9 months in Volhynia and Podolia with a view to preparing to take over a district commission or a main division in the General District of Volhynia and Podolia. This report reads:

"On orders from the highest quarters, steps were taken to evacuate the whole district of Zuman. Germans and Ukrainians both stated that this was done because the entire wooded area of Zuman was to become a private hunting ground for the Reich Commissioner. In December 1942, when it was already bitterly cold, the evacuation was begun. Hundreds of families were forced to pack all their belongings over night and were then evacuated a distance of over 60 kilometers. Hundreds of people in Zuman and its vicinity were shot down with the aid of an entire police company, because they had communist sympathies. None of the Ukrainians believed this..."

Have you not found it, Witness? Because I want you to follow this, you see. Have you found it?

LAMMERS: No, I have not found it yet.

MAJOR JONES: It is very difficult to follow these embarrassing parts of the document, you know.

LAMMERS: Yes, I have found the place.

MAJOR JONES: I will read the last sentence, in order to refresh your memory as to these murders:

"Hundreds of people in Zuman and its vicinity were shot down with the aid of an entire police company, because they had communist sympathies. None of the Ukrainians believed this; and the Germans were also puzzled by this argument, because even if this was done for the security of the country, it would, at the same time, have been necessary to execute

elements infected by communism in other regions. On the contrary it is flatly maintained all over the country that those men were ruthlessly shot down without trial simply because the evacuation was too extensive and could not possibly be carried out in the short time at their disposal and because, in any case, there was not enough space available at the new spot where the evacuees were to be settled.”

Do you mean to say that after reading that report you did not know that Koch was a murderer?

LAMMERS: On receiving that report I did everything in my power. The report was immediately submitted to the Führer, and if it is true, I admit it was murder; but I do not remember this report just now. If he killed these people, he is a murderer; but I am not Herr Koch's judge.

Rosenberg complained very bitterly about this matter and it was immediately passed on to the Führer.

MAJOR JONES: Rosenberg continued in office with this man as one of his commissioners, did he not?

LAMMERS: The Führer asked Bormann and myself to decide; and he tried to console Rosenberg. Rosenberg tried to resign repeatedly but was not able to do so.

MAJOR JONES: I want to turn to another territory so that you can give further information to the Court as to the conditions in the occupied territories because what I am putting to you generally, you see, is that the battles that were going on there were battles between ruthless men struggling for power and that there was totally absent from this scene of Nazi control any person who was pressing for human decency, pressing for human pity. You were not pressing for either of those things, were you?

LAMMERS: I did not hear; what would I not initiate? There are continual disturbances on this channel. Will you please repeat the question.

MAJOR JONES: You, in the situation in which you found yourself, were not acting on the side of human decency in this regime, were you?

LAMMERS: I was always on the side of human decency and pity. I have always done such things. I have saved the lives of perhaps one to two hundred thousand Jews.

MAJOR JONES: All you did was to forward annihilation reports to the Himmlers and Bormanns and Hitlers, was that not so?

LAMMERS: I never transmitted annihilation orders.

MAJOR JONES: There is one matter which went through your hands relating to the Defendant Keitel and the ruthless policy that

Terboven was carrying out against the Norwegian people. I draw your attention to the document...

LAMMERS: I only asked Herr Keitel to define his point of view and I objected to the Führer against the shooting of hostages. My subordinates can vouch for that.

MAJOR JONES: I just want to draw your attention to Document 871-PS, which will be Exhibit GB-322, which is a letter from Keitel to yourself and is related to the report by Terboven in Document 870-PS, which my learned friend Sir David Maxwell-Fyfe put in in connection with the Defendant Keitel.

Now, you will see that that letter, 871-PS, is a letter from Keitel to yourself and it says in the first paragraph:

"In connection with the problem of checking sabotage in Norway, I agree with the view of the Reich Commissioner for the occupied Norwegian territories to the extent that I expect results from reprisals only if they are carried out ruthlessly and if Reich Commissioner Terboven is authorized to have the offenders shot."

LAMMERS: I submitted that to the Führer expressing at the same time my views on the shooting of hostages; and my representations to the Führer were successful.

MAJOR JONES: You were successful in what respect?

LAMMERS: The Führer, in a discussion in which Terboven participated, expressly stated that the shooting of hostages was not to take place on the scale he and some others wanted. Hostages were to be taken only from the offenders' intimate circle.

MAJOR JONES: So the effect of your intervention was that the murders did not take place on the scale that Terboven wanted to commit them, did it?

LAMMERS: Yes, Terboven wanted hostages shot on a large scale but the Führer did not approve of that and I objected to every shooting of hostages. The officials of the Reich Chancellery know that and can vouch for it.

MAJOR JONES: And as a result...

LAMMERS: Yes, it is true that I received this letter. Matters took the following course: First I received Terboven's request and then I wrote to Field Marshal Keitel and told him that I intended to submit Terboven's request to the Führer. I asked him to comment on it. Then the teletype came from Keitel and the request was submitted to the Führer.

Terboven's request was watered down. The Führer took the position that the most important thing was to apprehend the

miscreants and hostages were to be taken only in case of necessity. There was no mention of shooting them.

MAJOR JONES: Witness, you know perfectly well that over all the territory where Nazi power ruled hostages were taken, fathers and mothers were killed for the actions of their sons against the Nazi regime. Are you saying you do not know that?

LAMMERS: No, I did not know that for I was not the controller of the occupied territories and I have never been there myself.

MAJOR JONES: But you were receiving regular reports from there and you were the link between the ministers of the occupied territories and Hitler. Just a minute—you were the link between the—now will you please listen to my question? You were the link between the ministers of the occupied territories and Hitler, were you not?

LAMMERS: Not in all cases. A great many of them went through Bormann, especially Terboven. My subordinates in the Chancellery can vouch for that. Terboven constantly avoided sending his reports through me and sent them through Bormann.

MAJOR JONES: You were working hand in hand.

LAMMERS: Yes, I had to collaborate with him.

MAJOR JONES: You were working hand in glove with Bormann, you know, were you not?

LAMMERS: Yes, I had to work with him.

MAJOR JONES: You had to work with him? You were the head of the Reich Chancellery.

LAMMERS: In order to submit proposals to the Führer I had to work through Bormann. I had to collaborate closely with him in order to have the sanction of the Party in countless instances where the sanction of the Party was prescribed, and for that reason I was forced to work closely with Bormann.

MAJOR JONES: Did you find it distasteful to work with Bormann?

LAMMERS: I did not find it distasteful. It was my duty to work with him.

MAJOR JONES: Of course I am suggesting to you, you see, that the power which you and Bormann exercised was very great.

LAMMERS: Yes; it was also exercised in a very one-sided manner; for Bormann could see the Führer every day and I could see him only once every 6 or 8 weeks. Bormann passed on to me the Führer's decision and had personal interviews with the Führer, but I did not.



MAJOR JONES: You were seeking to the very end to maintain your collaboration with Bormann, were you not?

LAMMERS: I had to work with Bormann; that was the only way in which certain things could be brought to the Führer's notice at all. During the last 8 months of the Führer's regime I had no interviews with him and I could only achieve through Bormann the things which I did accomplish.

MAJOR JONES: You wrote to Bormann, you remember, as late as the first of January 1945, a letter, Document D-753(a), Exhibit GB-323.

LAMMERS: Yes, I remember. The letter contains—I can tell you that from memory without reading the letter—my complaints about the fact that I was no longer admitted to the Führer's presence and said that this state of affairs could not go on any longer.

MAJOR JONES: And you say in that letter in the last paragraph but one:

“For our former harmonious co-operation has for a long time been a thorn in the flesh of various persons who would like to play us off one against the other.”

That is the last paragraph but one of your letter, right at the end of it.

LAMMERS: Where is the place?

MAJOR JONES: The last paragraph but one of your letter, the last sentence but three.

LAMMERS: The sentence before the last?

MAJOR JONES: The one before.

LAMMERS: “In conclusion I would like to say,” is that the paragraph you mean?

MAJOR JONES: The sentence before that, “For our former harmonious co-operation...”

LAMMERS: Yes, but I would like to add that at the end I repeated my wish for our cordial personal relations and I repeat that it was a New Year's letter and when I write to some one wishing him luck for the New Year, I cannot write that things went badly the year before; so in order to maintain cordial relations I say that everything went well.

MAJOR JONES: You were not seeking to shift responsibility in this matter to Bormann. You were the link between the occupied territories and Hitler.

LAMMERS: I was; but not exclusively, only for matters of secondary importance. The Reich commissioners were directly responsible to the Führer.

MAJOR JONES: I want to ask you some questions now, not about terror which existed in the territory that Germany conquered, but about the terror in Germany itself. You have testified as to the Defendant Frick that as Minister of the Interior he was in effect a man without power, a man of straw. That is the rough effect of your evidence, is it not?

LAMMERS: I said that he had no influence on the Police.

MAJOR JONES: Did you not know that appeals against arrests in concentration camps went to Frick?

LAMMERS: Yes, many cases were referred to Frick.

MAJOR JONES: Do you know whether he exercised his power in any substantial way for the victims who were in those camps? Did you not hear my question?

LAMMERS: I cannot hear it all; I can hear about half of what you say. Other voices keep on interfering on my channel. Perhaps I had better take the earphones off.

MAJOR JONES: No, put them on. Just try again, just put them on, will you? Put your earphones on, will you and just try—patiently, you see, a little patience.

Is it not a fact that Frick was the person to whom petitions for release from concentration camps went?

LAMMERS: Frick received such petitions, of course; but a great many petitions of that kind came to me, too; and I took care of them. I treated them as petitions to the Führer. They were given careful attention and I frequently secured the release of certain people in this way.

MAJOR JONES: But what did Frick do in his capacity as having authority in these matters?

LAMMERS: Frick often passed on such complaints to me to be reported to the Führer. It is impossible for me to know what he did with all the other complaints.

MAJOR JONES: I want you to listen to an affidavit by a Dr. Sidney Mendel, a Doctor of Law, which is Exhibit GB-324 (Document Number 3601-PS). He says that he is a Doctor of Law, that until the end of 1938 he was a member of the Berlin Bar and admitted as an attorney at law to the German courts. His legal residence is now 85-20 Elmhurst Avenue, Elmhurst, L.I., State of New York.

In his capacity as attorney he handled numerous concentration camp cases in the years 1933 to 1938. He remembers distinctly that in the years 1934 and 1935 he approached, in several cases, Frick's Reich Ministry of the Interior as the agency superior to the Gestapo

for the release of concentration camp inmates. Frick's Ministry had special control functions over concentration camps.

The deponent further states that he informed the Ministry about illegal arrests, beatings, torture, and mistreatment of inmates, but the Ministry declined the release and upheld the decisions of the Gestapo.

That was Frick's attitude towards these matters, was it not?

LAMMERS: I really do not know what steps Frick took with regard to complaints received. You will have to ask Dr. Frick.

MAJOR JONES: But you have testified on his behalf, you see—of Frick. If you now say you know nothing about him, then I shall not trouble you further with the case of the Defendant Frick; but you gave evidence for him, you know.

LAMMERS: I could only speak generally on his attitude on the Police but I cannot possibly know what steps he took in regard to letters which he received.

MAJOR JONES: You said that in the Protectorate of Bohemia and Moravia, Frick again was a man without power. That was the effect of your evidence, was it not?

LAMMERS: I said then that he was mainly a decorative figure. That does not mean that he received no petitions or requests; but I do not know what he thought fit to do.

MAJOR JONES: You say he was a decorative personality. That is a matter of taste. But one of his functions, at any rate, was that he was the person to decide whether death sentences in his territory were carried out or not. That is not a small matter for the human beings in the Protectorate of Bohemia and Moravia, you know.

LAMMERS: Yes, please delete the word "decorative." I mean more decorative than active, like the head of a state, for instance, who usually deals with certain matters only. Frick was in that position. He was the head of the German organization and had authority to remit sentences. That was a very important matter, of course; I do not doubt it.

MAJOR JONES: You know, Witness, perfectly well that it was within Frick's power to relieve the death sentences that were being carried out in the territory of Bohemia and Moravia, do you not?

LAMMERS: Yes, certainly that was in his power; there is no doubt about it.

MAJOR JONES: And I suggest to you that Frick did not exercise clemency or influence by moderation, but on the contrary enforced brutal means against the victims of Nazi administration in that unfortunate part of Europe.

LAMMERS: Frick was empowered to use his own judgment in the matter of remitting sentences. I do not know on what principle he based his actions.

MAJOR JONES: You were concerned with Frick and the Ministry of Justice in the drafting of penal laws against Poles and Jews in the annexed Eastern territories, were you not?

LAMMERS: There was a proceeding pending at the Ministry of Justice at one time; and the Ministry of Justice corresponded with me, but I believe nothing ever came of the matter.

MAJOR JONES: You had no part in the drafting of that legislation, did you?

LAMMERS: No, I am not acquainted with it. I believe no special law was issued; as far as I remember, it was left to the Gauleiter to establish laws. I do not know.

MAJOR JONES: The laws were left to the Gauleiter, to the Kochs and the Franks and the Rosenbergs; is that what happened?

LAMMERS: No, we are talking about the provinces of West Prussia and of Posen now; that is what our correspondence was about.

MAJOR JONES: I now want you to answer some questions about Sauckel.

THE PRESIDENT: Shall we adjourn for 10 minutes?

MAJOR JONES: If Your Lordship pleases.

*[A recess was taken.]*

THE PRESIDENT: Dr. Lammers, can you hear what I say?

LAMMERS: Yes.

THE PRESIDENT: Well, will you kindly try and answer the questions after they have been put to you and not break into the questions? Try and wait for a moment until the questions have been put because the interpreters and the reporters are finding it very difficult to take down what you say and to interpret what you say.

MAJOR JONES: I want to deal with your relations, for the moment, with Seyss-Inquart. You were receiving reports from him as to his administration in the Low Countries, were you not?

LAMMERS: It was like this: Every three months or so, a general report was sent in and then passed on to the Führer. We also received individual reports.

MAJOR JONES: And in the Low Countries, as elsewhere, you know that the object of German administration was to extract and exploit that territory for the German advantage as much as possible, do you not?

LAMMERS: Our aim was naturally to make use of the occupied countries for our war production. I know nothing about any orders for exploitation.

MAJOR JONES: To reduce their standard of living, to reduce them to starvation, that was one of the results of the Netherlands policy. You knew that, did you not?

LAMMERS: I do not believe that we went as far as that. I myself had friends and relatives in Holland and know that people in Holland lived much better than we did in Germany.

MAJOR JONES: I want you to look at the Document 997-PS, which is already Exhibit Number RF-122, which consists of a letter which you sent to Rosenberg, the defendant, enclosing a report given to you by Stabsleiter Schickedanz to the Führer, together with a report delivered by Reich Commissioner Dr. Seyss-Inquart, about the period from May 29 to July 19, 1940. If you look at Page 9 of your text, Page 5 of the English text, of 997-PS, you will see there is a first statement of the outlines of German economic policy in the Low Countries. You will see the paragraph is marked on your copy, so that your difficulty of finding where these passages are, might be eliminated. You see it reads, "It is necessary to reduce consumption by the population..."

LAMMERS: It goes without saying that in wartime consumption by the population must be reduced. There is no intention of gaining supplies for the Reich.

MAJOR JONES: Just one moment and I will read out the passage to you:

"It was clear that with the occupation of the Netherlands a large number of economic and, in addition, police measures had to be taken. The first of these were intended to reduce the consumption of the population in order, partly to gain supplies for the Reich and, partly, to secure a uniform distribution of the remaining stocks."

That is a very concise statement of the economic policy that Seyss-Inquart was pursuing towards the Dutch people, is it not?

LAMMERS: Yes, it is also a very reasonable policy. Supplies had to be reduced in order to distribute them equally and to gain some for the Reich. In any case, the report is not mine but was made by Herr Schickedanz, and I do not know if it is correct.

MAJOR JONES: But the object of this reduction of consumption of the population was to benefit the Reich so that the territory of the Low Countries should be robbed in order that the Reich should profit. That was the whole policy, was it not?

LAMMERS: That is certainly not here. It says here, firstly, that supplies must be acquired for the Reich; and secondly, that the various supplies must be equally distributed; that means among the Dutch people. There is not a word about a policy of exploitation.

MAJOR JONES: If it please the Tribunal, they have the document and can read the language in which it appears.

[Turning to the witness.] I want you now to turn your mind to the Defendant Sauckel. You, Witness, knew quite well of the vast program of enslavement of the people conquered by the Nazi forces that Sauckel was engaged upon, did you not?

LAMMERS: I have seen Sauckel's program and also the regulations he drew up to enforce it. I did not have the impression that it was a program of slave labor. Sauckel was always very kind and very moderate in his views and he made every effort to recruit the necessary quotas of foreign workmen by means of voluntary enlistment.

MAJOR JONES: Are you suggesting that you thought that the millions of foreign workers that Sauckel dragged into the Reich came there voluntarily?

LAMMERS: They did not all come voluntarily. For instance, they came from France through a compulsory labor law introduced by the French Government. They did not come voluntarily but due to a measure decreed by the French Government.

MAJOR JONES: I want you to look at one of the first reports that you received from Sauckel on his labor program. It is Document 1296-PS, Exhibit Number GB-325. It starts with a letter from Sauckel to you dated the 29th of July 1942:

"Dear Reich Minister,

"I enclose for your information a copy of a report to the Führer and to the Reich Marshal of the Greater German Reich. Heil Hitler! Yours faithfully"—signed—"Fritz Sauckel."

LAMMERS: Yes, this report must have reached me.

MAJOR JONES: Yes. And you must presumably have examined it, did you not?

LAMMERS: Yes, not now; it was submitted to me for information.

MAJOR JONES: And you examined it at the time?

LAMMERS: I assume that I read it, that I glanced through it quickly. It was of no further interest to me.

MAJOR JONES: You will see in the first page of the report itself that it indicates, for instance, that in the period from April to July 1942, which was the first period of activity of Sauckel as Plenipotentiary General for Manpower, he had obtained a total of 1,639,794 foreign workers, and of those you see that 221,009 were Soviet Russian prisoners of war. You saw that, did you not?

LAMMERS: I probably read it. I had no reason to object to it. Sauckel was not under my orders. He was really under the Four Year Plan, as the signature here shows; but for all practical purposes he was immediately under the Führer. He sent the reports straight to the Führer, and the only reason why I myself did not pass this report on to the Führer was because I knew that the same report had reached the Führer via Reichsleiter Bormann. Otherwise I had nothing at all to do with this matter.

MAJOR JONES: But you knew perfectly well that it was wickedly wrong, did you not, to compel soldiers that had been captured in battle to go to work against their own country?

LAMMERS: It was Sauckel's job to arrange that with the offices with which he worked. I never bothered about this question. That was a matter for Sauckel to arrange with the appropriate departments, with the Wehrmacht, and possibly, in respect to international law, with the Foreign Office. Moreover, I see no mention of prisoners of war here.

MAJOR JONES: I do not want to suggest that you are...

LAMMERS: I have not yet read anything about prisoners of war.

MAJOR JONES: Just look at the first page of the report. There is no mystery about this, you know. You can read German perfectly easily.

LAMMERS: Yes, but I cannot read reports of several pages in one minute.

MAJOR JONES: Just look at the first page of the report.

LAMMERS: Yes, now I see it.

MAJOR JONES: And you knew it at the beginning of the questioning of this matter... [*The witness attempted to interrupt.*] Just a minute, if you please. When I am speaking would you mind waiting until I have finished before you interrupt. Otherwise the translation machinery is not able to offer a prompt translation. You see from that report, quite clearly, do you not, that in the very first 4 months of Sauckel's career as a slave driver, he obtained 221,009 Soviet prisoners of war to work in this labor machine?

LAMMERS: The details did not interest me. I had no authority to supervise Sauckel. A report was sent in stating how he had done this. As to whether he had a right to do it, that was a question which he had to settle in agreement with the appropriate departments. I did not investigate the matter because the report was only sent to me for information.

MAJOR JONES: You have testified on Sauckel's behalf that he resisted the suggestion that the SS should work in this sphere of labor personnel. Did you not say that?

LAMMERS: No, I did not say that. I merely said that he did not want to have the SS alone, but that he wanted support from any executive authority which was available at the moment; it is obvious, of course, that in the partisan regions this would be mainly Police and SS.

MAJOR JONES: And quite simply, you knew that Sauckel was asking for more help from the SS to get more labor. That is what he was after, was it not?

LAMMERS: Yes. Otherwise he could not work in these regions, if order was not maintained.

MAJOR JONES: Just look at the Document 1292-PS, which is Exhibit USA-225 and RF-68. That is the report of a conference on the allocation of labor in 1944, the 4th of January, the minutes of which you wrote yourself, so that if anything you say is to be relied upon, that is your report. You will see that at that conference Hitler was there, Sauckel, Speer, Keitel, Milch, Himmler.

LAMMERS: The new work program for 1944 was made out and I was instructed to inform the departments concerned. I took part in this conference only because it concerned a measure in which the respective fields of a number of offices had to be made known. Otherwise I would not have participated in this at all.

MAJOR JONES: And in that conference Hitler said that Sauckel must get at least another 4 million workers for the manpower pool, did he not?

LAMMERS: That is possible. The Führer asked more of Sauckel than Sauckel thought he could provide.

MAJOR JONES: And Sauckel said that whether he could do that depended primarily on what German enforcement agents will be made available; his project cannot be carried out with domestic enforcement agents. And then your record goes on:

"The Reichsführer SS explained that the executives put at his disposal were very few in number but that he"—that is to say, Himmler—"would try to help on the Sauckel project by increasing their number and working them harder. The



Reichsführer SS immediately made 2,000 to 2,600 men from the concentration camps available for air-raid precautions in Vienna."

That is to say, it is clear from that report, is it not, that Sauckel was seeking more help from the SS and that Himmler was saying he would do his best to help him? Is that not so?

LAMMERS: There is no doubt of that, but Sauckel did not want to have help from the SS only, he wanted to get any help he needed in the country in question by the appropriate service, as I said before, the Feldkommandantur, for instance.

MAJOR JONES: There is a last document which I want to put to you on Sauckel. It is Document 3819-PS, Exhibit Number GB-306, a small part of which was read into the record by Sir David Maxwell-Fyfe. That is a report from Sauckel to Hitler, dated 17 March 1944. I take it that you probably saw a copy of that report, did you not?

LAMMERS: I do not know.

MAJOR JONES: Just look at it, because it is most illuminating on the attitude of Sauckel toward the assistance of the SS and the German Police.

LAMMERS: Yes; this is dated 11 July 1944. I have one here which is dated 11 July 1944.

MAJOR JONES: Yes.

THE PRESIDENT: Mr. Elwyn Jones, he is saying that he has in his hand a document of 11 July 1944. The document you referred to was 17 March, was it not?

MAJOR JONES: Yes.

[Turning to the witness.] You have got your minutes of the conference. Is there not attached to it a report of Sauckel dated 17 March?

LAMMERS: There is a report attached here dated 5 April.

MAJOR JONES: I shall not proceed with that part of the document, My Lord.

[Turning to the witness.] If you will turn to the document dated 12 July, that will do for my present purposes. You remember that is your own report of the conference of 12 July 1944 on the question of the increased procuring of foreign manpower. And you opened that conference, Witness, did you not?

LAMMERS: I was always a neutral agent. If there were any differences of opinion, I offered my service as go-between.

MAJOR JONES: What were you neutral about, Witness?

LAMMERS: I was not in charge of an office. The other departments had their own departmental interests.

MAJOR JONES: You were not being an honest broker between Sauckel and Himmler, were you?

LAMMERS: I frequently had to try to effect a compromise between various people, including on occasion Himmler or Sauckel, when a dispute arose; and I think I need not blush to say that in that case I was an honest broker. I wanted to bring about an agreement between these two so that it would not be necessary to involve the Führer in such differences of opinion.

MAJOR JONES: Just look at the manner in which you opened that conference. You said there—it is the second sentence under your name:

“He limited the subject of the discussion to an examination of all the possible means of making good the present deficit of foreign workers.”

Then you say in the next question:

“The question of whether and in what form greater compulsion can force people to accept work in Germany must remain in the foreground.”

The operative word is, you know, “compulsion.”

LAMMERS: Yes; they were obviously thinking of female labor and of a reduction of the age limits set for juvenile workers.

MAJOR JONES: Just go on to the next sentence of your statement:

“In this connection we must consider how the executives, whose inadequacy is the subject of strong complaints by the Plenipotentiary for Allocation of Labor, can be strengthened on the one hand by the exercise of influence on the foreign governments and on the other by the expansion of our executive forces and the intensified use of the Wehrmacht, the Police, or of other German services.”

That is how you opened that conference, you know.

LAMMERS: That is quite correct. These were the problems that had to be discussed.

MAJOR JONES: To produce more forced labor and discover by what terrorizing by the police and what pressures by Ribbentrop the results could be achieved? That was the object of the conference, was it not?

LAMMERS: No, our object was not to consider how we might terrorize people but how we could carry out official decrees with the necessary executive power to back them up. Surely no terrorist

measures are implied in saying that something must be done in a matter. I could describe a case in France, for instance. The workers recruited by Sauckel in France were brought to the railroad station by French executives for transportation as prescribed by the French compulsory labor decree. Everything was in order...

MAJOR JONES: Just answer my questions, will you? You are going on to a different matter.

LAMMERS: I did not suggest terrorist measures. Some compulsion must be exercised by every state authority; but to talk of compulsion is by no means terrorism, or a crime, or violation.

MAJOR JONES: I just draw your attention to the contribution of General Warlimont in this discussion, where he said that:

"The troops assigned to fighting the partisans will take over, in addition, the task of raising manpower in the partisan areas. Everyone who cannot account satisfactorily for his presence in these areas is to be seized."

And you said:

"On further inquiry by the Reich Minister, Dr. Lammers," —this is on Page 10 of the English record—"as to whether members of the population fit for employment could not be withdrawn along with the troops, Colonel Saas, Plenipotentiary for Italy, stated that Field Marshal Kesselring had already decreed that the population of an area extending to a depth of 30 kilometers behind the front was to be 'captured'."

The whole emphasis of that conference was on the use of force, was it not, and the collaboration of the executive agencies of the State to procure the necessary forced labor for the Reich?

LAMMERS: A certain degree of coercion was to be applied undoubtedly.

MAJOR JONES: There are only two more matters, My Lord, which I feel that it is my duty to put to the witness.

[Turning to the witness.] On the question of the massacre of the Jewish people, you said in your evidence before the adjournment that you had saved 200,000 Jews yourself. Do you remember saying that to the Tribunal?

LAMMERS: Yes.

MAJOR JONES: You saved them from extermination, you meant, I take it?

LAMMERS: No. I merely saved them from evacuation and nothing else. I found out afterwards, of course—now—that in actual fact I really did save them from death. You have...

MAJOR JONES: You know you have testified—just a moment—you have testified to the Tribunal as to a conference which took place early in 1943 where you were invited by the Reichssicherheits-hauptamt to send a representative to the conference dealing with the Jewish problem. Do you remember saying that to the Tribunal?

LAMMERS: Yes, the matter was discussed. It was a conference of experts.

MAJOR JONES: That was the famous conference which Eichmann presided over, do you remember?

LAMMERS: That I do not know. I did not attend it myself; I merely sent a subordinate.

MAJOR JONES: The invitation to attend the conference, that came from Kaltenbrunner, did it not?

LAMMERS: The invitation came from the RSHA.

MAJOR JONES: Not from Kaltenbrunner personally.

LAMMERS: I do not know.

MAJOR JONES: And you sent a representative to the conference, did you not?

LAMMERS: Someone had to go as my representative; and he had specific orders simply to listen and not to make any comments during the conference, because I reserved for myself the right to report this to the Führer.

MAJOR JONES: Was your representative at this conference instructed by you to take no attitude? Was that what you said to the Tribunal?

LAMMERS: He was given express orders not to make any comments. My State Secretary, who gave him the instructions, can confirm this. He could not do so in any case, since no decisions were reached. But he was not to make any comments on his own initiative because I intended to discuss this question, which was at that time described as "the final solution of the Jewish problem," with the Führer. For this reason, I deliberately gave the order, "No comments!"

MAJOR JONES: You sent Gottfried Bohle as your representative to that conference, did you not?

LAMMERS: I did not send him; my State Secretary sent him, and he was not even the competent expert, but was accidentally...

MAJOR JONES: Just answer my questions, briefly, won't you? Gottfried Bohle made a report to you, did he not?

LAMMERS: I received a short written report, not a verbal report.

MAJOR JONES: And did that report indicate to you that Eichmann was planning extermination?

LAMMERS: No, there was nothing about that; and we did not know about it. At least, I cannot remember that there was anything in it that would have caused me to take any immediate action.

MAJOR JONES: Yesterday you told the Tribunal that concentration camps were not mentioned in the Reich budget. Do you remember saying that?

LAMMERS: That what was included?

MAJOR JONES: Yesterday...

LAMMERS: I do not know. I did not find or read anything about it.

MAJOR JONES: Yesterday you told the Tribunal that nothing was mentioned in the Reich budget about concentration camps.

LAMMERS: I did not find anything and I did not read anything on that subject. I do not know anything about it. Such matters did not interest me much anyway.

MAJOR JONES: You are saying now that you do not know whether there were any references to concentration camps in the budget or not?

LAMMERS: I could not say for certain. I do not remember any specific mention of the concentration camps in the budget.

MAJOR JONES: Does it surprise you to know that for the 1939 budget for the armed SS and concentration camps in the Ministry of the Interior budget there was a sum of 104,000,000 marks and 21,000,000 marks set out as expenses for these items? Did you know that?

LAMMERS: I did not study every item of the budget drawn up by the Minister of the Interior. I did not read any budgets at all. I was interested only in my own budgets in the Reich Chancellery; I did not read those of other offices. I had no reason to do so.

MAJOR JONES: Did you know that there were over 300 concentration camps in Nazi Germany?

LAMMERS: No, I did not know that.

MAJOR JONES: How many did you, as head of the Reich Chancellery, know of the existence of?

LAMMERS: I only knew about a few.

MAJOR JONES: Only a few.

LAMMERS: Three at the most.

MAJOR JONES: Are you solemnly, on oath...

LAMMERS: But I did know that others existed.

MAJOR JONES: Are you solemnly, on oath, saying to the Tribunal that you, in the very center of the web of Nazism, did not know of the existence of more than three concentration camps?

LAMMERS: Yes, I do mean to say so. I was not in the very center of Nazism; I was the head administrative official who did administrative work for the Führer. I did not concern myself with concentration camps. I knew of some concentration camps, that is of two or three; and it was clear to me that others must exist. I cannot say more under oath.

MAJOR JONES: I put it to you that you knew quite well of this regime of terror but continued to serve in it until the last. Is that not so?

LAMMERS: What regime of terror? The concentration camp system existed. I knew that; everyone knew that.

MAJOR JONES: But that did not trouble your conscience, I take it.

LAMMERS: That they existed? I submitted my proposals with regard to the concentration camps to the Führer; and he excluded me from the entire question as early as 1934 after I had made suggestions to him about concentration camps, and turned the whole matter over to Himmler to whom I had to transmit all complaints about concentration camps. I had nothing whatever to do with concentration camps except when I received complaints which I considered as being addressed to the Führer. I pursued them as far as was possible and had them remedied in part.

MAJOR JONES: You, of course, were an SS Obergruppenführer. Perhaps you did not recognize terror when you heard and saw it.

LAMMERS: I was SS Obergruppenführer, which was an honorary rank, just as I said before of Seyss-Inquart. I performed no official duties in the SS; I had no command, no authority, or anything.

MAJOR JONES: And you profited considerably, you and your Nazi colleagues, from this regime, did you not? You, as the Controller of the Reich Chancellery funds, can probably assist us in that matter.

LAMMERS: What did I have? Considerable what?

MAJOR JONES: Funds, money, marks, Reichsmark.

LAMMERS: Yes. I had an income, naturally.

MAJOR JONES: And you were responsible for distributing...

LAMMERS: Not as an SS Führer.

MAJOR JONES: As Reich Chancellor you were responsible for distributing the largess of the Nazis among yourselves, were you not?

LAMMERS: I was in charge of the Führer's funds; and on his instructions I made the necessary payments out of those funds. I could not spend money as I pleased.

MAJOR JONES: You, as Reich Chancellor, delivered a million Reichsmark to Dr. Ley, did you not?

LAMMERS: That was a donation that the Führer specifically granted to Ley. I did not do that on my own initiative.

MAJOR JONES: And Ribbentrop was another recipient of a million, was he not?

LAMMERS: He received a million in installments, first one half and then the other.

MAJOR JONES: And Keitel was another millionaire, was he not? He received a million, did he not?

LAMMERS: He received a sum of money and an estate, because the Führer renewed the practice of the old Prussian kings of granting land and money to his generals.

MAJOR JONES: And you yourself received 600,000 marks, did you not?

LAMMERS: I received 600,000 marks on my 65th birthday. I received this sum because I had never received anything in my previous positions, since I had never asked for it—also because I had twice been bombed out and had no house or property of my own. The Führer wished me to buy a small house.

MAJOR JONES: That is all.

If your Lordship will allow me to clarify the exhibit numbers of the documents I have put in: Document 3863-PS is Exhibit GB-320; 2220-PS is USA-175; 686-PS is USA-305; 865-PS is USA-143; 032-PS is GB-321; 871-PS is GB-322; D-753(a) is GB-323; 3601-PS is GB-324; 997-PS is RF-122; 1296-PS is GB-325; 1292-PS was USA-225 and RF-68; 3819-PS was GB-306.

THE PRESIDENT: Mr. Elwyn Jones, have you put in the budget which shows the figures that you gave us?

MAJOR JONES: It is on Page 1394 of the 1939 budget. For the purposes of the record, it will be Exhibit GB-326 (Document 3873-PS).

THE PRESIDENT: Thank you.

MAJOR JONES: The Prosecution will have an extract made from this vast volume, My Lord, for the purposes of the court document.

THE PRESIDENT: Very well.

Colonel Pokrovsky, the Tribunal thought that there was going to be only one cross-examination of the witnesses who were not defendants.

COL. POKROVSKY: The Soviet Delegation wished to question the witness Lammers. It was suggested that the interrogation be split up into two parts, some of the questions to be asked by the British Delegation and the others by the Russian Delegation.

MAJOR JONES: If your Lordship pleases...

THE PRESIDENT: Was this the one case that was mentioned?

MAJOR JONES: This is the exceptional case, My Lord, and the agreement was made before the new regime of cross-examination was introduced. My colleague, Colonel Pokrovsky, and I did agree to share the work; and there are very few matters which Colonel Pokrovsky has indicated which he desires to put; and that was in agreement between the Prosecution.

THE PRESIDENT: Very well.

COL. POKROVSKY: On 6 November 1945 you were interrogated by a representative of the Soviet Prosecution. Do you remember this interrogation?

LAMMERS: Yes, I do remember an interrogation by a representative of the Soviet Prosecution.

COL. POKROVSKY: You testified at the time that Hitler...

LAMMERS: Yes. I testified.

COL. POKROVSKY: You do not know what I am talking about, so do not hurry.

Now, you testified that Hitler authorized you to render your help to Rosenberg. You remember that, do you not?

LAMMERS: Yes, Rosenberg was to take over the political work in connection with Eastern problems.

COL. POKROVSKY: That is correct. What was your help to Rosenberg?

LAMMERS: To begin with, it only meant that I had an interview with him at which he discussed his plans for a possible administration to be established. The Führer had given him instructions to consider how, in the case of war with Russia, the country might be occupied and administered. For this Herr Rosenberg...

COL. POKROVSKY: Witness, wait a moment. I did not ask you what the Führer asked Rosenberg to do. I am asking you, what did the Führer authorize or ask you to do? You said, "To help Rosenberg." Exactly what form did your help to Rosenberg take? You



assisted in... [*The witness attempted to interrupt.*] Wait a minute. Did you participate in the development—wait a moment, please listen to my question. Did you participate in working out a plan for the economic organization of the Eastern territories? Do you understand me?

LAMMERS: I did not take part in working out the organization of the economy.

COL. POKROVSKY: I want you to take a look at Document Number 1056-PS. Do you recall this document now?

[*The document was handed to the witness.*]

LAMMERS: I must see it first.

COL. POKROVSKY: Yes, that is the reason why it was given to you.

LAMMERS: I do not seem to recognize this document, nor do I believe that I prepared it. It is obviously a plan drawn up by Herr Rosenberg.

COL. POKROVSKY: In other words, you affirm that you did not know anything; and you do not know anything at all about this document?

LAMMERS: It is possible that Herr Rosenberg handed me a plan of the kind, but at the moment I cannot say whether I ever had these 30 pages in my hands or not. I do not know.

COL. POKROVSKY: Yesterday you testified before the Tribunal—and your testimony was very detailed—in regard to the economic administration of Eastern territories. How could you give any truthful testimony if you did not know anything at all about this basic document? This particular document really defines and determines the structure of the administration in territories which were under Rosenberg. Do you understand me?

LAMMERS: I cannot give any opinion as to what is contained in this document. I cannot form an opinion of a document of 30 pages in one moment here. Please let me have the document so that I read the whole of it. I do not believe that I ever had this document in my hands. Rosenberg attended to organization in the East. I simply co-operated in a decree, a basic decree, in which Rosenberg was given the authority in the East. I was not at all interested in the details.

COL. POKROVSKY: If your memory is so weak in regard to this document, then would you please be good enough to look at another document? It is less than 30 pages long. Now, you will be shown a document signed by yourself. It deals with the question of the Soviet prisoners of war. It is Exhibit USSR-361. There is one

passage marked in this document which says that the Soviet prisoners of war should not be treated according to general rules, but be put under the charge of the Ministry for the Eastern Territories. Have you found the place? *[There was no response.]* Witness Lammers, I am asking you . . .

LAMMERS: I have not found the place.

COL. POKROVSKY: Take a look at the second page.

LAMMERS: The appendix?

COL. POKROVSKY: Yes, yes, in the appendix. For your convenience, the place is marked with a pencil.

LAMMERS: Not here. There is no marked passage in the one I have.

THE PRESIDENT: Colonel Pokrovsky, the document I have—if it is the same one, 073-PS is in paragraphs. Might you refer him to the paragraphs?

COL. POKROVSKY: Just a minute, please.

Unfortunately the paragraph is not mentioned in the excerpt I have. However, the exact place will be shown to the witness.

*[The place in the document was indicated to the witness.]*

This place is really marked with a pencil. He simply did not notice it.

*[Turning to the witness.]* Did you find it?

LAMMERS: Yes, I have it now.

COL. POKROVSKY: And now have you convinced yourself that it is marked with a pencil?

LAMMERS: Yes, the Foreign Office . . .

COL. POKROVSKY: I am not asking you about that. I am interested in another place where it says, "The exception to this regulation is the Soviet prisoners . . ." Did you find it?

LAMMERS: Yes.

COL. POKROVSKY: "The exception to this regulation is the Soviet prisoners of war"—that is what I am interested in—"who are under the charge of the Minister administering Occupied Eastern Territories, since the general Geneva Convention does not . . ."—and so forth.

Did you find the place?

LAMMERS: Yes, I have the place.

COL. POKROVSKY: Did you sign this document?

LAMMERS: I did not sign this document, because it has been drawn up by the Foreign Office. I simply signed a letter forwarding

this memorandum from the Foreign Office to Minister Rosenberg for his information.

COL. POKROVSKY: Also, with a covering note. You also sent your letter . . .

LAMMERS: In this covering note I say that I am enclosing a memorandum from the Foreign Office, "The Foreign Office comments on your letter, *et cetera*; and I may inform you of this." I simply acted as intermediary and forwarding office. I did not draw up the memorandum or sign it.

COL. POKROVSKY: Then do I understand you, in this way, that you actually substantiated the authenticity of this document, the document that went through your hands?

LAMMERS: I do not know; I can only substantiate . . .

COL. POKROVSKY: How could you not say it? You told us you were forwarding it; you gave this document and forwarded it to somebody else. Did you send it to some address?

LAMMERS: I sent on the document signed. I signed the letter informing Herr Rosenberg of the attitude taken by the Foreign Office. Whether the enclosure is authentic or not, I do not know.

COL. POKROVSKY: I am quite satisfied with this answer.

On 8 April, here before the Tribunal, you stated that the solution of the Jewish problem was referred by Hitler to Göring and Heydrich and later on to Heydrich's successor, Kaltenbrunner. Now, I want you to tell us exactly how Göring, Heydrich, and Kaltenbrunner participated in solving the Jewish problem.

LAMMERS: I only knew that a Führer order was transmitted by Reich Marshal Göring to Heydrich, who was at that time head of the RSHA. I believe that it was then transferred to Kaltenbrunner's authority. This order was called, "Final Solution of the Jewish Problem," but no one knew what it dealt with or what the term meant. In the period which followed I made several efforts to clarify the real meaning of the term "final solution" and what was to happen. I attempted yesterday to explain this question, but I was not allowed to say all I wanted.

COL. POKROVSKY: Well, it is not sufficiently clear exactly through whom and how—in what way—you attempted to clarify the meaning of the expression, "final solution of the Jewish problem." To whom did you appeal? Whom did you ask?

LAMMERS: At first I appealed to Himmler and asked him what the meaning of it was. Himmler told me that the Führer had ordered him to evacuate the Jews who were still in Germany, and this led to a number of problems referred to as the "Final Solution of the Jewish Problem." That is what I said yesterday.

COL. POKROVSKY: Witness, wait a minute. You said that Hitler charged Göring and Heydrich, and subsequently Kaltenbrunner, with the solution of this problem. Did you address yourself to Göring in regard to this? to Heydrich and to Kaltenbrunner? Did you ask them that question, the question in which you told me you were interested?

LAMMERS: No, I cannot remember doing that, because I believed that Göring was merely transmitting the Führer's order. I have no knowledge of Keitel's participation; I did not hear of that until today.

COL. POKROVSKY: Who has been talking of Keitel? He was not mentioned at all; it was Heydrich.

LAMMERS: Heydrich had this assignment. I discovered from the reports of my assistants that such an assignment existed. I was interested in ascertaining what kind of assignment it was, and I applied to Himmler for information.

COL. POKROVSKY: And so you were not successful?

LAMMERS: I did not see a written order.

COL. POKROVSKY: Yesterday you said, "all except me" expressed their opinion on Jewish problems. Who are all these, "all" except you? You remember that testimony yesterday?

LAMMERS: I testified yesterday that I had spoken to Himmler about this question and that I reserved for myself the right to report to the Führer. I also testified that I had this interview with the Führer but that the Führer was very difficult to persuade in these matters. I also testified yesterday that there were rumors about Jews being killed which led me to make investigations. I further testified yesterday that these rumors, as far as I could find out, were gossip. So there was nothing else for me to do but to go to the Führer in this matter—first to go to Himmler, and then to the Führer.

COL. POKROVSKY: Witness, I do not ask you what you said yesterday. I do not want to hear your testimony for the second time. What I am interested in, and what I want to clarify at the moment, is the fact that you mentioned yesterday that, "All except me expressed their opinion in regard to the Jewish problem." "All" means whom? Name them. Whom do you mean? And answer my question directly.

LAMMERS: I do not understand the question "all."

COL. POKROVSKY: I will repeat this question for the third time, so that you can understand it better: Yesterday you said, when you were testifying on the solution of the Jewish problem,

"All except me expressed their opinion and defined their attitude in regard to the Jewish problem. I was also asked to give my opinion." Do you remember it now?

LAMMERS: Yes, I remember that.

COL. POKROVSKY: Very well.

LAMMERS: The word "all" refers to all the departmental representatives invited to attend their conference. The heads of the departments concerned were invited to attend all these RSHA conferences. That is what "all" applies to.

COL. POKROVSKY: Which of the defendants here were present?

LAMMERS: There were no ministers present at all. This was merely a conference of experts. I was not there. I do not know who attended this conference.

COL. POKROVSKY: You were present at the conference in Hitler's quarters on 16 July 1941? You understand what conference I mean, do you not? That is the one which was for the purpose of considering objectives of war against the U.S.S.R. Do you understand it now?

LAMMERS: Yes.

COL. POKROVSKY: Was Keitel present at the conference?

LAMMERS: To my knowledge, yes.

COL. POKROVSKY: Do you not remember what Keitel said about the aims of the war against the U.S.S.R.?

LAMMERS: I cannot remember whether he mentioned that subject.

COL. POKROVSKY: And did you stay until the end of the conference?

LAMMERS: I assume I stayed to the end.

COL. POKROVSKY: And Keitel, too? And Keitel also stayed until the end?

LAMMERS: I cannot remember that now. I assume that he did but he may have left earlier.

COL. POKROVSKY: You cannot be positive about it?

LAMMERS: No, I cannot be certain.

COL. POKROVSKY: On 13 October 1945, you were interrogated by a lieutenant colonel of the American army, and on that occasion you testified that Rosenberg was appointed Minister for the Eastern Territories according to the personal wish of the Führer. Do you remember this testimony?

LAMMERS: I know that I testified.

COL. POKROVSKY: Further, you testified, on the same day and during the same interrogation, that you did not recommend Rosenberg for this post, since you had certain objections in regard to his candidacy. What were the objections against Rosenberg's candidacy?

LAMMERS: There were many objections to Rosenberg's appointment. These were specifically raised by Bormann. Reichsleiter Bormann did not want to have Rosenberg in this position.

COL. POKROVSKY: Tell us something about your objections. What were your own objections?

LAMMERS: I submitted the question to the Führer at the time whether, if military complications arose, it was necessary to have such a man at all for the East; and, if so, whether Rosenberg was the right man to organize the matters.

COL. POKROVSKY: That was in April 1941?

LAMMERS: I no longer remember; it was in the spring.

COL. POKROVSKY: On orders from Reich Minister Rosenberg, forced labor was introduced, forced labor for the Jewish population of the Eastern regions, on 16 August 1941. Everyone of Jewish origin between the ages of 14 and 60 had to perform forced labor. If they refused to work they were liable to be executed. Do you know about this order or not?

LAMMERS: I did not know of it. I cannot recall it.

COL. POKROVSKY: Take a look at this document and try to remember.

Mr. President, this document is printed on Page 50 of the second part of Göring's Green Folder, which is already submitted to the Tribunal under Document Number EC-347.

LAMMERS: I cannot remember this document.

COL. POKROVSKY: All right. We will let that go. Take a look at another document. Perhaps your memory will be somewhat better in regard to this document.

THE PRESIDENT: Colonel Pokrovsky, in that last document that you were referring to, have these paragraphs of the ordinance been read into the record?

COL. POKROVSKY: I would not be quite positive about that, Mr. President; I do not know whether this particular paragraph was read into the record. All the second part of Göring's Green Folder was presented to the Tribunal in evidence and listed under Exhibit USA-320 (Document Number EC-347). The document about the preliminary investigation bears the Number EC-347. This part was

read into the record. I think that inasmuch as the witness does not remember this document now, we shall touch upon it when it is needed more urgently at the interrogation of another defendant.

Now, we will take care of something else.

*[Turning to the witness.]* Take a look at the Führer directive of 29 August 1941. This document, of course, will be easy to remember, since your signature appears on it. This is a directive in regard to the economic measures in the Occupied Eastern Territories.

This document, Your Honors, is also one of the documents of the second part of Göring's Green Folder. It is presented to the Tribunal in English.

*[Turning to the witness.]* Now, do you recognize this document?

LAMMERS: Yes, I signed this document. This is a measure which the Führer decreed at the Reich Marshal's suggestions.

COL. POKROVSKY: Very well; and how do you explain the fact that Keitel was signing directives or orders like this one, concerning general governmental matters of the Reich which were not of a military nature? How do you explain this? Why should it be signed by Hitler, Keitel, and Lammers?

LAMMERS: This was a Führer decree; and Führer decrees were attested by myself and also signed by Keitel, as Chief of the OKW, if the Wehrmacht was in any way interested. They might also be signed by Bormann as a third member, if Party interests were involved. That caused Bormann's signature . . .

COL. POKROVSKY: Bormann's signature is not here. It is signed by Hitler, Keitel, and Lammers. Is that right?

LAMMERS: It was signed first by Keitel because it dealt with the occupied regions in the East.

COL. POKROVSKY: In other words, Keitel was responsible for all legislation in occupied territories; is that so? Do you hear my question? Was the Defendant Keitel responsible for all legal measures in occupied territories? Do you hear my question?

LAMMERS: The signature does not involve any responsibility . . .

COL. POKROVSKY: Then why his signature and what was the purpose of his signature? Just for decorative purposes?

LAMMERS: Since he was interested or concerned in the matter, he attested that, along with us, but to speak of responsibility . . .

COL. POKROVSKY: You should know better than anybody else. All the same it is not quite clear why there was any necessity to have his signatures on the document; and his signature is right above yours. What does it deal with?

LAMMERS: It was probably assumed that this decree would affect Wehrmacht interests. Field Marshal Keitel must know better than I do why he signed it at that time.

COL. POKROVSKY: You read this document yourself, and you could see very well for yourself that the Armed Forces are not affected by it.

I have two more questions for you. You testified today that Seyss-Inquart received SS rank and uniform but he did not have the rights of a commander of the SS. Is that correct?

LAMMERS: Yes, that is correct.

COL. POKROVSKY: Well, then, should one conclude after this that the rank of a police official and the police uniform were really an honorary distinction in the Reich?

LAMMERS: Seyss-Inquart did not belong to the Police but to the General SS.

COL. POKROVSKY: But the SS was actually being used for police measures, was that not so?

LAMMERS: No, the general SS had no police assignments; that is not correct. And the SS uniform represented a special distinction in the Reich.

COL. POKROVSKY: He received his uniform as a sort of reward for certain work he had done?

LAMMERS: Yes.

COL. POKROVSKY: Now, I want to ask you one last question . . .

LAMMERS: It was not always a reward for exceptional service, but certain leading personages in the Reich received . . .

COL. POKROVSKY: I am satisfied with your answer and I do not need any further details. Now I want to ask you one last question. On 17 January the Defendant Keitel sent an application to the Tribunal to have you brought in as a witness. He stated in his application that you could testify here before the Tribunal that he, Keitel, as the head of the Armed Forces along with the military agencies under his charge in the occupied territories, opposed Rosenberg's plunder squads and issued orders for their arrest. You were called before the Tribunal to answer this question and for some unknown reason this was the only question not put to you. I would like you to answer this question now. What do you know about the struggle of Keitel and the Armed Forces against Rosenberg's looting squads, as Keitel calls them?

LAMMERS: I know only that Rosenberg was commissioned to buy up objects of art and that he was also commissioned to get



furniture in the western occupied territories which was needed for the offices in the East. He received this assignment in his capacity of Minister of the Reich.

COL. POKROVSKY: Witness, evidently you misunderstood me. *[The witness attempted to interrupt.]* Wait a moment. Now, we are not talking about the worries of Rosenberg; but I am asking you what you know about the fight of the military command against Rosenberg's looting squads—to use Keitel's words. Do you understand my question? Do you know anything at all about this or do you know nothing?

LAMMERS: No, I know nothing about that.

COL. POKROVSKY: All right, I am quite satisfied. I have no further questions to ask the witness.

THE PRESIDENT: Colonel Pokrovsky, in order to be accurate: I understood you to say with reference to that document that you were putting to the witness just now, of 2 June 1941, that this document had no reference to military authority. But Paragraph 2 of it says: "To achieve this end he"—that is Göring—"may give direct orders to the respective military authorities in the Eastern Occupied Territories." Therefore, it is not accurate to say that the document does not refer to the military authority at all.

COL. POKROVSKY: I suppose that the Tribunal remembers the testimony which was given here in regard to the circumstances under which Keitel signed general directives and general law. He explained it by saying that all these orders and directives were of an operational staff nature.

In this particular case the question concerns but a general Reich office which has directly nothing to do with staff affairs.

THE PRESIDENT: I do not want to argue with you. I only want to point out it was not accurate to say that the document did not refer to military matters at all.

Dr. Nelte, do you want to re-examine?

DR. NELTE: Mr. President, I should be grateful if Colonel Pokrovsky would make clear his last question to the witness, Dr. Lammers. He has stated that the Defendant Keitel called Dr. Lammers as a witness to the fact that he, Keitel, had opposed the efforts made by Rosenberg's special staff in the Eastern territories. Did I understand him correctly? Perhaps the translation from Russian into German was not very good.

THE PRESIDENT: I am not sure that I understood the question, but I understood the witness was not able to answer it. But I do not think it can be of very great importance. The witness was not able to answer the question.

DR. NELTE: No, I thought that the Soviet prosecutor meant that Dr. Lammers had been called as a witness to give certain evidence and I did not ask the witness any such question. I only want to make it clear that this is not the case; otherwise I have no query on the matter, nor have I personally any further questions to put to the witness on behalf of the Defendant Keitel.

THE PRESIDENT: I do not think the Tribunal think that it is necessary for you to go into that. You have covered the ground fully in your examination-in-chief. Then, Dr. Nelte, have you any other witnesses to call?

DR. NELTE: I can finish in half an hour tomorrow morning. I have no further witnesses to examine.

THE TRIBUNAL (Mr. Francis Biddle, Member for the United States): I would like to ask two or three questions about the Reich Cabinet. You said the first meeting was on 30 January 1933 and the last was in November 1937. Were there any other meetings in 1937?

LAMMERS: No, the Cabinet meetings were not replaced by any other meetings.

THE TRIBUNAL (Mr. Biddle): I did not ask you that. Would you listen? You said there was a meeting in November 1937. Were there any other meetings in the year 1937?

LAMMERS: Yes, there were some before that. There were several Cabinet meetings but not very many. There were comparatively few in 1937.

THE TRIBUNAL (Mr. Biddle): How many would you say in 1937?

LAMMERS: How many? There might have been five or six Cabinet meetings. I do not think there were more.

THE TRIBUNAL (Mr. Biddle): Do you know how many there were in...

LAMMERS: There may have been less.

THE TRIBUNAL (Mr. Biddle): Do you know how many there were in 1936?

LAMMERS: There were rather more Cabinet meetings then, but not as many as at the beginning of 1933 and 1934. The number of Cabinet meetings has...

THE TRIBUNAL (Mr. Biddle): That is enough, thank you.

THE PRESIDENT: Yes, Dr. Laternser?

DR. LATERNSE: Mr. President, I have no questions to put to the witness, but I simply wanted to interpose a few remarks on the following matter:

My colleague, Dr. Nelte, has dispensed with the examination of further witnesses. By so doing he has dispensed with Colonel General Halder, among others and, of course, he is entitled to do so, although in dispensing with the examination of the witness Halder, he is encroaching on my rights. The Tribunal will recall that when a written statement by the witness Halder was submitted, the Tribunal...

THE PRESIDENT: Doctor, if Dr. Nelte does not call General Halder then you can apply for calling him yourself and the matter will be considered. Presumably you have already asked for him and you have been referred to the fact that he has been specified by Dr. Nelte. Now, Dr. Nelte has not called him. You can renew your application if you want to, in writing.

DR. LATERNSEER: Mr. President, I do not believe that that point of view is quite correct. When the written statement was presented by the Russian Prosecution it was stated, upon objection by the Defense, that the witness Halder should be called for cross-examination and in agreement with my other colleagues, I changed this so that Halder would be heard during the proceedings for the Defendant Keitel. Dispensing with this witness will encroach upon my rights. I believe, consequently, that I have a right to ask that the witness be put at my disposal for interrogation.

THE PRESIDENT: Dr. Laternser, we will consider the matter of General Halder and let you know in the morning. It is 5 o'clock now.

DR. LATERNSEER: Yes..

DR. SEIDL: Mr. President, I should have liked to ask the witness some questions which have been made necessary by the cross-examination and which touch on certain questions...

THE PRESIDENT: You cannot do it tonight at any rate. We will consider it and let you know tomorrow morning, but you cannot do it tonight.

DR. SEIDL: I simply wanted to bring it up so the witness would still be at hand tomorrow morning.

THE PRESIDENT: Very well, he shall be at hand.

MR. DODD: Your Lordship, if I may have one minute of the Tribunal's time, Justice Jackson asked me to bring to the attention of the Tribunal for its information these facts apropos of the discussion of this morning.

We have received from Colonel Dostert the original transcript which was handed to him by Dr. Thoma and it shows that there was a red line drawn in the margin beside this passage which was translated and mimeographed and included in the document book.

Dr. Thoma this morning felt that he had not underlined it and he also felt that there was undoubtedly a mistake in the translation and Colonel Dostert tells us that there is no mistake in the translation and that it was underlined.

THE PRESIDENT: Well now, Dr. Nelte, we should like to know what your position is about General Westhoff and—I think it is the Obergruppenführer Wielen or something of that sort. You were given the opportunity of calling those witnesses and we understand you do not desire to do so.

DR. NELTE: Gentlemen of the Tribunal, I think that the cross-examination has made it clear that the Prosecution has abandoned the original charge against Keitel, namely, that he issued an order, or transmitted an order from Hitler, to the effect that the 50 Royal Air Force officers should be shot.

Sir David Maxwell-Fyfe confronted the defendant with the four points of which he accused the Defendant Keitel in connection with this case; and the defendant admitted these four points.

Since I named General Westhoff as a witness only to testify that Keitel did not issue the order and he did not pass it on, and as Westhoff was not present at the conference at the Obersalzberg and has no first-hand knowledge, there is no further need for me to call this witness.

THE PRESIDENT: Dr. Nelte, you, of course, are to decide whether you call him or not. But unless Sir David Maxwell-Fyfe says that he has withdrawn any charge against Keitel I do not think that you ought to refrain from calling him on the ground that a charge has been abandoned. There has not been any express abandonment of any charge. Subject to anything that Sir David Maxwell-Fyfe says I should not have thought that that would be a good reason for not calling him, but it is entirely a matter for you.

Yes, Sir David?

SIR DAVID MAXWELL-FYFE: My Lord, there is no abandonment of any charge. In fact, the Prosecution stands by what is stated by General Westhoff in his statement which I put to the Defendant Keitel. That is the evidence for the Prosecution and the Prosecution stands by that as it is put in.

DR. NELTE: May I ask whether the Prosecution wish to assert that General Westhoff has testified that Keitel did issue this order or transmit it?

THE PRESIDENT: Dr. Nelte, you have seen the document which contains an excerpt of the statement by General Westhoff. You therefore know what he says in that statement. The Tribunal, subject to what counsel desires to address them on the subject—they

will, of course, hear them—but the Tribunal propose to call General Westhoff themselves in order to hear his statement whether he adheres to his statement; and also Wielen, Wielen's evidence, of course, is principally against the Defendant Kaltenbrunner.

DR. NELTE: Then may I also ask the Prosecution to submit to the Tribunal the affidavit deposed by General Westhoff with regard to this matter, so as to make clear . . .

THE PRESIDENT: When you say affidavit, do you mean the statement?

DR. NELTE: No; I mean the affidavit, not an unsworn statement. So far, the Prosecution have dealt only with statements not made under oath. Apart from these, however, Colonel Williams required and received an affidavit from the witness Westhoff, and this affidavit contains a precise statement from Westhoff to the effect that he does not wish to say and never has said that Keitel ever issued or transmitted any such order.

SIR DAVID MAXWELL-FYFE: I have no affidavit. I have checked with Mr. Roberts and we have not got one. There were two interrogations, if my recollection is correct, one which was early and one on 2 November. There were two interrogations, one of which I put in. They are in Dr. Nelte's document book. I have no affidavit. If I had, of course, I should produce it at once. I do not know where Dr. Nelte got the information, but certainly no affidavit has ever been brought to my attention.

THE PRESIDENT: The only thing the Tribunal has got is a statement made by General Westhoff which is annexed to the report of a certain brigadier whose name I have forgotten. Oh yes, Brigadier Shapcott. The course which the Tribunal proposes to do is to call General Westhoff and to ask him whether his statement made in that document is accurate and also true.

SIR DAVID MAXWELL-FYFE: The Prosecution has not the slightest objection to that.

THE PRESIDENT: The Marshal will have General Westhoff and also Wielen—they will be here tomorrow morning at 10 o'clock.

MARSHAL (Colonel Charles W. Mays): Yes.

THE PRESIDENT: The Tribunal will now adjourn.

*[The Tribunal adjourned until 10 April 1946 at 1000 hours.]*

# ONE HUNDRED AND FOURTH DAY

Wednesday, 10 April 1946

## *Morning Session*

DR. THOMA: High Tribunal, Mr. President, I stated yesterday that the Lapouge passage was not marked red in my document book and should not be read. My assertion was not correct. I made this assertion for the following reasons:

My client, Herr Rosenberg, sent me the following note yesterday while I was delivering my case: "The passages in the document book to be cited are certainly marked in red; the other parts do not have to be translated at all." The passages referred to in the French text had not been marked. I consequently assumed that the passages should not be translated. This communication from Rosenberg, however, had a different meaning. Rosenberg had made a sign in certain documents that were marked in red to indicate that these passages do not have to be read. That includes the quotation from Lapouge, and therefore the error occurred.

I also said yesterday that the passage cited by Mr. Justice Jackson was incorrectly translated. That, too, was an error which occurred on my part apparently because the emphasis of the word "Bastardisierung" shocked me. I presume that "miscegenation" was meant. I request the translation department to pardon me. The document book itself...

THE PRESIDENT: Dr. Thoma, the Tribunal quite understand that there must have been some mistake, and no one, I hope—and certainly not the Tribunal—is accusing you of any bad faith in the matter at all. The Tribunal quite understand that there must have been some misunderstanding or some mistake which led to whatever happened.

DR. THOMA: I thank you very much.

DR. NELTE: Mr. President, permit me to ask the Tribunal a short question related to procedure matters in the case of Westhoff. Yesterday I stated the reasons why I believed I could forego calling the witness Westhoff. According to the explanation of the British Prosecution the error has been cleared up, and therefore my assumption is no longer true. I should like now to ask the Tribunal, "Is the original situation thereby automatically restored, and may I also claim to examine this witness before the Court as a defense

witness, or must I make a formal application to be authorized to call this witness again?"

THE PRESIDENT: No, Dr. Nelte, the Tribunal do not desire you to make any formal application. You can ask the witness any questions when he has answered the questions which the Tribunal will put to him, and the Prosecution, of course, can also ask him questions.

DR. NELTE: Thank you.

THE PRESIDENT: Now, Dr. Seidl, I think you wanted to put some questions to this witness, did you not, on behalf of the Defendant Frank? We hope that they won't be very long.

DR. SEIDL: Witness, the Prosecution asked you a question yesterday in connection with the AB Action. For your information AB Action means extraordinary pacifying operations. It was necessary in connection with uprisings during 1940 in the Government General. In this connection the Prosecution read you a quotation from Frank's diary of 16 May 1940. I want to read to you, first of all, one further sentence from this same citation, from the same entry. It reads as follows:

"Every arbitrary action is to be prevented with the most severe measures. In every case the point of view which takes into consideration the necessary protection of the Führer's authority and of the Reich must be in the foreground. Moreover, action will be postponed until 15 June 1940."

The Prosecution then read you a further citation from 30 May from which one could draw the conclusion...

THE PRESIDENT: The Tribunal do not think that you really can read passages of Frank's diary to the witness. I mean, you are re-examining to clear up. He had not seen the diary.

DR. SEIDL: I shall ask him a question. Before that, however, I must read another short passage; otherwise he cannot understand the question.

THE PRESIDENT: What is the question? You can put the diary to Frank when you call Frank.

DR. SEIDL: The witness was heard yesterday in connection with this AB Action, and he was presented with a passage from this diary that must have given him the impression that a rather large number of Poles had been shot without any court proceedings.

THE PRESIDENT: What question do you want to put?

DR. SEIDL: I want to ask him whether he knows Ministerial Counsellor Wille, what position he occupied in the Government General, and what kind of assistance this Dr. Wille could possibly give if he had anything at all to do with this action.

THE PRESIDENT: Well, ask him that, Dr. Seidl, if you like, but the diary has no relevance to that question at all.

DR. SEIDL: But the question can only be answered sensibly if I, Mr. President, read him the corresponding passage from the diary. Otherwise he certainly won't see the connection.

THE PRESIDENT: The Tribunal do not see the connection, either, and the Tribunal thinks there is no point in reading the diary to him.

DR. SEIDL: That will become apparent, Mr. President. I ask to be allowed to read one more passage from the diary, namely of 12 June 1940.

THE PRESIDENT: No, Dr. Seidl. You can ask him your question, but you can't read the diary to him. You stated what the question was, whether he knew somebody held a certain position in the Government General. You can ask him that question.

DR. SEIDL: Witness, do you know Ministerial Counsellor Wille?

LAMMERS: No, I can't remember him.

DR. SEIDL: You also do not know that he was the head of the main justice division in the Government General?

LAMMERS: No; that, too, I do not remember.

DR. SEIDL: Then the one question is already settled.

The second question which I had to present to the witness is related again to an entry in Frank's diary in connection with concentration camps. I can, however, also ask this question only if beforehand I can read the witness a corresponding passage from the diary.

THE PRESIDENT: Tell us what the question is.

DR. SEIDL: The question would have read, "Is the point of view expressed in the entry in Frank's diary"—which I intended to read—"the correct point of view? Does it agree with his first explanation on Monday, or is the view expressed in the passage from the diary which the Prosecution presented yesterday the correct one?"

THE PRESIDENT: Well, the Tribunal think you can put the question, if you put it in the form, "Do you know what was the attitude of Frank towards concentration camps?"—if you put it in that way—"and what was it?"

DR. SEIDL: Mr. President, the witness has already answered this question in his direct examination. He declared that Frank held a negative attitude toward concentration camps. Yesterday, however, an excerpt was read to him from Frank's diary which could prove the opposite. However, there are dozens of entries in Frank's diary that corroborate the point of view of the witness and which



contradict that which was presented by the Prosecution. I can therefore only ask the witness a sensible question if I read him something from the diary.

THE PRESIDENT: Dr. Seidl, all those matters can be gone into with Frank. You can prove then every passage that ended in argument; you can prove every passage in the diary which is relevant; and you can put the most necessary passages to Frank.

DR. SEIDL: The third question would have been in reference to the telegram...

THE PRESIDENT: Dr. Seidl, it is only a very exceptional privilege that you, as counsel for Frank, are allowed to re-examine at all, and the Tribunal have expressed the opinion to you that they do not think this is a matter on which you ought to be allowed to re-examine. The person to re-examine is the one who calls a witness in the first place. We can't allow, in ordinary cases, re-examination by everyone.

DR. SEIDL: I then renounce any further question to this witness.

THE PRESIDENT: Then the witness can retire.

*[The witness left the stand.]*

And now the Tribunal wishes to have General Westhoff brought in.

Sir David, could you find me the German version of General Westhoff's statement in these papers here?

SIR DAVID MAXWELL-FYFE: I looked for it, but could not find it, My Lord.

THE PRESIDENT: You can't find it?

*[The witness Westhoff took the stand.]*

THE PRESIDENT: Will you give me your full name?

ADOLF WESTHOFF (Witness): Adolf.

THE PRESIDENT: Your full name?

WESTHOFF: Adolf Westhoff.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

*[The witness repeated the oath.]*

THE PRESIDENT: You may sit down.

General Westhoff, you made a statement before Brigadier Shapcott or before Captain J. B. Parnell, did you not?

WESTHOFF: I do not know the captain's name. I made a statement in England.

THE PRESIDENT: Yes. On the 13th of June 1945?

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WESTHOFF: That is possible, yes.

THE PRESIDENT: You don't know English, I suppose?

WESTHOFF: No.

THE PRESIDENT: Well, I will read you—have the Prosecution got another copy of this document?

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: Yes. Well, Sir David, if you would follow me whilst I read it and draw my attention to any passages which are really relevant...

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: Since it is a considerably long document, I don't wish to read it all to the witness.

What the Tribunal wants to know, General Westhoff, is whether you adhere to this statement or whether you wish to make any alterations in it. And I will read to you, so that you may remember it, the material passages from the statement.

WESTHOFF: Very well.

THE PRESIDENT: "I was in charge of the 'General' department (Abteilung 'Allgemein') when the shooting of the escaped R.A.F. P.W. from Stalag Luft III took place. It was the first occasion on which Feldmarschall Keitel had sent for me. I went with General Von Graevenitz. He had been sent for and I was to accompany him. A certain number of officers had escaped from the Sagan Camp."

Am I going too fast?

"I don't remember how many, but I believe about 80..."

DR. NELTE: Mr. President, can I be of service to the Tribunal by handing him a German translation which has been placed at my disposal by the Prosecution?

THE PRESIDENT: Yes, thank you.

SIR DAVID MAXWELL-FYFE: I am very grateful to Dr. Nelte.

THE PRESIDENT: General Westhoff, would you read that statement of yours through as quickly as you can? You will be able to see what are the really material passages, and then tell the Tribunal whether that statement is correct.

WESTHOFF: Yes.

DR. NELTE: Mr. President, there is still another part of the statement which I have also received from the Prosecution. It was a very extensive compilation. May I also in addition submit this to the witness?

THE PRESIDENT: Do you mean that he has not the whole document?

DR. NELTE: No, he does not have all of it yet.

THE PRESIDENT: Oh yes, certainly.

DR. NELTE: I received it from the Prosecution in three sections and I should now like to give him these three parts so he may have it complete.

THE PRESIDENT: The statement that we have here in English is five pages done in type, and is certified in this way:

“This appendix contains an accurate translation of oral statements made to me by Major General Westhoff on 13 June 1945 in reply to questions concerning the shooting of 50 R.A.F. officers from Stalag Luft III. Dated this 23rd day of the ninth month of 1945. J. E. Parnell, Captain, Intelligence Corps.”

Is that on . . .

DR. NELTE: Mr. President, I do not know whether General Westhoff was not perhaps interrogated several times. In this document he also made statements regarding the whole policy regarding prisoners of war—in other words, not only about the Sagan case. We are here concerned with a continuous report, and the witness . . .

THE PRESIDENT: The only document which is in evidence is this document which I have in my hand, which is annexed to the report of Brigadier Shapcott.

SIR DAVID MAXWELL-FYFE: My Lord, I looked at the document, the part that Dr. Nelte has. I think my German is sufficient to identify it. It is the same document. If Your Lordship will look at Page 2, Your Lordship will see the passage, “Generalinspekteur, General Roettig.” My Lord, that is where it starts, and I have checked it as to the last paragraph. It is the same, “I cannot remember having received any reports. . . .” As far as my German goes, that is the same here; so this part of the document is the last half of the document that Your Lordship has.

THE PRESIDENT: I see. Yes, Dr. Nelte, and Sir David, perhaps the best course would be if Sir David put the passages upon which he relies to the witness, and the witness could then be asked whether those were accurate.

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: And Dr. Nelte can ask any questions that he wishes to after that.

*[Turning to the witness.]* Witness, counsel is going to ask you questions upon this document now, so you need not go on reading.

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SIR DAVID MAXWELL-FYFE: Witness, have you had a chance of reading the first paragraph of this statement?

WESTHOFF: Yes, I have read it.

SIR DAVID MAXWELL-FYFE: And is that correct? Is that true?

WESTHOFF: There are a few things in it that are not entirely correct. For instance, on the first page there is...

SIR DAVID MAXWELL-FYFE: Let me take it, then I read it to you, and see how far it is correct:

"I was in charge of the 'General' department (Abteilung 'Allgemein') when the shooting of the escaped R.A.F. P.W. from Stalag Luft III took place."

That is correct, is it not?

WESTHOFF: Here is missing the phrase, "... when the shooting took place."

SIR DAVID MAXWELL-FYFE: Now:

"It was the first occasion on which Feldmarschall Keitel had sent for me. I went with General Von Graevenitz. He had been sent for and I was to accompany him."

Is that right?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: "A certain number of officers had escaped from the Sagan Camp. I do not remember how many, but I believe about 80."

That is correct, too?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Now, the next sentence:

"When we entered, the 'Feldmarschall' was very excited and nervous, and said, 'Gentlemen, this is a bad business.'"

Is that correct?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Then:

"We were always blamed whenever P. W. escaped. We could not tie them to our apron strings!"

That is your own comment. Then you go on as to what the Field Marshal said:

"This morning, Göring reproached me in the presence of Himmler for having let some more P.W. escape. It was unheard of!"

You go on with your comment that:

"Then they must have had a row because the camp did not come under us; it was a G.A.F. camp."

Is that correct, that the Field Marshal said:

"This morning, Göring reproached me in the presence of Himmler for having let some more P.W. escape?"

WESTHOFF: Not in Himmler's presence, but in Hitler's presence. Hitler's presence.

SIR DAVID MAXWELL-FYFE: It ought to be in Hitler's presence?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Now, the next sentence:

"All G.A.F. camps came directly under the G.A.F. itself, but the inspector of P.W. camps was in charge of all camps for inspection purposes. I was not inspector yet."

We have had all that explained. I do not think that there is any dispute about the organization. I won't trouble you about that. We have gone into that in this court in some detail. Unless the Tribunal want it, I did not intend to trouble this witness again. You say, "I was not inspector yet. General Von Graevenitz was inspector, and all camps came under him in matters concerning inspection and administration."

Then you say:

"Göring blamed Keitel for having let those men escape. These constant escapes were a bad show. Then Himmler interfered—I can only say what the Feldmarschall told us—and he complained that he would have to provide another 60,000 or 70,000 men as 'Landwachen,' *et cetera*."

Is that right? Did the Field Marshal say that?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Now, the second paragraph:

"Feldmarschall Keitel said to us, 'Gentlemen, these escapes must stop. We must set an example. We shall take very severe measures. I can only tell you that the men who have escaped will be shot; probably the majority of them are dead already.' Keitel said that to us at the conference."

Is that correct?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Then you say:

"We were amazed as that was a conception we had never come across before. The affair must have happened in March. We were sent to the 'Feldmarschall' in Berlin a few days after

the escape, not on that account but for some other business. We knew they had escaped, and we were taken by surprise by that declaration at the conference."

Then you go on again with your account of the conference: "General Von Graevenitz intervened at once and said, 'But, Sir, that is out of the question. Escape is not a dishonorable offense. That is specially laid down in the Convention.'"

Is that correct, that General Von Graevenitz said these words?

WESTHOFF: General Von Graevenitz made objections with reference to the Geneva Convention, but there is missing in this report the fact that the Field Marshal said to General Von Graevenitz that this was a matter of a Führer decree. That is missing here.

SIR DAVID MAXWELL-FYFE: Well, if you look at the next sentence that I was going to read to you, you say:

"He"—that is General Von Graevenitz—"raised these objections, whereupon Keitel said, 'I do not care a damn; we discussed it in the Führer's presence, and it cannot be altered.'"

Is that correct?

WESTHOFF: No. The Field Marshal said, "That is a matter of indifference to me. That is a matter of indifference to me."

SIR DAVID MAXWELL-FYFE: I think it would be easier, General, if you told the Tribunal now, to the best of your recollection, what did the Field Marshal say after General Von Graevenitz had made his objections?

WESTHOFF: I have deposed a sworn statement to the Court on that subject, which I might perhaps read:

"Regarding the presence of General Von Graevenitz and myself at the headquarters in March of 1944, Field Marshal Keitel . . ."

SIR DAVID MAXWELL-FYFE: General Westhoff, the Tribunal may want that later. It would be easier if you would try to stick to this statement for the moment—whether it is right or wrong at the moment—and then we will deal with any other one later on. It is just this point, if you could direct your mind to it: After General Von Graevenitz had made his objection, as you have told us, on the ground of the Convention, what did the Field Marshal say? What did he say at that point? If you would just try and do that, it would be a great help to us all.

WESTHOFF: The Field Marshal then said, "It is now a matter of indifference; we must set an example."

SIR DAVID MAXWELL-FYFE: I thought you said that he did mention that there was a Führer decree to that effect, or a Führer order, or something of that sort. Did he mention that?

WESTHOFF: That he had already said at the very beginning, that this was a matter of a Führer decree.

SIR DAVID MAXWELL-FYFE: In the next paragraph you point out in this statement—and I think it is only fair to yourself to read it; it is the second sentence:

“But in this case none of our men”—the men of the Wehrmacht—“had shot any of the P.W. I made inquiries at once.”

Then you say:

“None of them had been shot by a soldier, but by Gestapo men only or else police sentries. That proves that probably Himmler—of course, I do not know whether he made the suggestion to the Führer, or how they arranged it. It should be possible to find that out from Göring, who was present at the conference. Naturally, I do not know.”

Do you remember making these answers?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Then, you say again:

“At any rate, it is a clear fact that our men did not shoot any of them; they must all have been shot by policemen.”

And you point out in the last sentence:

“But in this particular case, only those caught by our people were brought back to the camp, that is, those caught by soldiers.”

Now, in the next paragraph you say that you had no authority to give the police orders, and you repeat that the members of the Wehrmacht did not shoot any of them. And then in the third sentence you say:

“I had a report sent me at once, and told General Von Graevenitz, ‘Sir, the only thing we can do is to see that no dirty business is carried out where we are in charge.’”

Is that right: Does that correctly describe what you did, General?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Now, you go on to say, a sentence or two later, that you were faced with a *fait accompli*; and then you say, after repeating General Von Graevenitz’s protests to Field Marshal Keitel, when he had said, “That’s quite impossible, we cannot shoot any people”:

“How the shooting was carried out I heard from the representative of the protecting power, Herr Naville, of Switzerland.”

Is that right?

WESTHOFF: No.

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SIR DAVID MAXWELL-FYFE: How did you hear of the shooting?

WESTHOFF: I turned to the Gestapo and wanted the particulars of the shootings for the Foreign Office, and I did not get them. The representative of Switzerland, Herr Naville, whom I had sent to the camp, visited me on his return, and from him I learned the only thing that I ever heard about this matter, namely, that apparently a prisoner of war who had returned to the camp had seen that the escaped airmen had been driven out of the Görlitz Prison on a truck heavily chained and under strong guard. That is the only thing I learned about this affair at all, and I have up to now not found out in what way these airmen perished. The Gestapo refused to inform me of this.

SIR DAVID MAXWELL-FYFE: But it is correct that generally what information you did receive you received from the representative of the protecting power. I don't know if you remember whether his name was Naville or not. But it is right, isn't it?

WESTHOFF: I did not understand the question.

SIR DAVID MAXWELL-FYFE: What information you did receive—you tell us that it was very little—you received from the representative of Switzerland, of the protecting power. Is that right?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Well now, I want to deal with the next bit in the statement where you tried to get in touch with the Foreign Office, and if you look down the paragraph you will see that you say:

“At any rate, we did not get any news, and so it was pointed out to the Field Marshal that such a state of affairs was impossible, that we had to get in communication with the Foreign Office. Then he emphatically stated that it was forbidden to get in touch with the Foreign Office.”

Is that correct?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: I will read on, two sentences:

“Then the affair was raised in the House of Commons in England, and then a note was sent by our side. Then I was quite suddenly called up by Admiral Bürckner of the Foreign Department (Amtsgruppe Ausland) in the OKW, which keeps contact with the Foreign Office. He called me up by telephone at night and said, ‘The Feldmarschall has given me orders to prepare an answer for England immediately. What is it all about? I don't know anything about the case.’ I said,



'Herr Admiral, I am sorry, but General Von Graevenitz received strict orders not to talk to anyone about it. Nothing was allowed to be put down in writing either. Apart from that, we ourselves were faced with an accomplished fact. This order was apparently issued by Himmler, and the position was such that we could do nothing more at all about it.'

Is that a correct account?

WESTHOFF: Here again the word "Himmler" stands where the word "Hitler" should stand.

SIR DAVID MAXWELL-FYFE: That should be Hitler. Apart from that, that is correct? I mean, in substance is that a correct account of the conversation between Admiral Bürckner and yourself?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: You then go on to say that Admiral Bürckner wanted you to tell him about the affair; that you only knew what the gentlemen from Switzerland had told you; and that you had made various attempts to approach the Gestapo. And then, if you look at just before the end of that paragraph:

"Then the Foreign Office itself got into touch and took charge of this affair. Then another of my men, Lieutenant Colonel Krafft, went to Berchtesgaden while I was on a journey. At that time a note to England was to be prepared. Then, when we read this note to England in the newspaper, we were all absolutely taken aback. We all clutched our heads. Mad! We could do nothing about the affair."

Is that correct? Did you say that, and is that correct?

WESTHOFF: The matter was then turned over to the Foreign Office, and the Foreign Office was charged with the preparation of a note to England. At this discussion Lieutenant Colonel Krafft was apparently called in as a specialist for the Sagan case to clarify any doubts, if such were still at hand. That is not to mean at all, however, that Lieutenant Colonel Krafft was in any way concerned with the preparation of the note; that was purely a matter for the Foreign Office. The Foreign Office had only called him in so that, if there were still any doubts about the matter, they could be clarified on the spot.

SIR DAVID MAXWELL-FYFE: Now, General, the next part of the statement I did not intend to read unless the Tribunal wanted it, because you are making quite clear that in your opinion the Inspector General, General Roettig, had nothing to do with the affair at all. And if you accept it from me that that is the substance of the next two paragraphs, I won't trouble you with it in detail. You are making clear that General Roettig had nothing to do with it. Is that right?

WESTHOFF: No.

SIR DAVID MAXWELL-FYFE: Well, I am sorry. If you will look at the first sentence—I thought it represented it fairly. Look at the first sentence:

“Generalinspekteur General Roettig had nothing to do with it, nothing at all. He did not have any hand in the affair at all. He was completely excluded from it by the fact that these matters were taken out of his hands, apparently at that conference with the Führer in the morning, that is to say, the conference between Himmler, Field Marshal Keitel, and Göring, which took place in the Führer’s presence.”

Is that right? I only wanted to put it shortly that you were trying to, and quite rightly if it is true, to give your view that General Roettig had nothing to do with it. Is that right, that is, that sentence I read to you?

Did you say, “yes”?

WESTHOFF: The Inspector General was responsible for measures to prevent escape, but had nothing to do with this matter.

SIR DAVID MAXWELL-FYFE: There is no difference between us. That is what I was suggesting. Now, I’d like you to look at the next paragraph. It also deals with General Roettig. Then, after that, you explain the position of the officers. You say this:

“I only know an order existed that only officers, and, I believe, only those who were caught by the Gestapo, should be handed over to them.”

Then you say—you talk about intelligence—I don’t want to trouble you about that. Then, if you would look at the next paragraph:

“I received a report from the camp saying so and so many men had been shot whilst attempting to escape. I did not hear from the Gestapo at all. It is like this. The reports are sent to the camp. Then the camp informed us that a certain number of men had been recaptured and a certain number shot. Things are reported in that way. The Gestapo sent me no information whatsoever; they merely told us casually whenever we made inquiries, that they had recaptured a certain number.”

Now the next sentence I want you to look at carefully:

“The Field Marshal gave us detailed instructions to publish a list at the camp, giving the names of those shot, as a warning. That was done. That was a direct order which we could not disobey.”

Is that correct?

WESTHOFF: It was ordered that a list of all those who were shot be posted up in the camp as a warning.

SIR DAVID MAXWELL-FYFE: And then the next sentence says: "Apparently the bodies were burned and the ashes put into urns and sent to the camp."

And then there is arrangement about the burial.

Then you say that that raised great difficulties. A sentence or two later you say that matters of that sort were always passed to higher authority. They went to the Party Chancellery, and then there was hell to pay. The cremation of prisoners of war was forbidden.

And then later on, when you say that you raised the question of it being contrary to the Convention, you say:-

"Whenever I addressed the Officers' corps and said, 'Gentlemen, we only act according to the Convention,' someone from higher authority from the Party Chancellery, arrived the following day and said, 'Gentlemen, the Convention is a scrap of paper which doesn't interest us.'"

Is that correct as to the general procedure?

WESTHOFF: It is not entirely correct. The OKW took the point of view that the Convention should be observed, but the prisoner-of-war affairs as such in Germany were only apparently in the hands of the OKW. The people who really formed the decisions on prisoner-of-war affairs were the Party and economic offices. Thus, for example, my office had to submit to the deputy of the Party Chancellery every order that was issued, and the Party Chancellery decided how this order was to be issued, and not the OKW at all.

SIR DAVID MAXWELL-FYFE: I don't want to go into it in detail. You had an interview with Bormann's deputy, Friedrich, at the Party Chancellery. And then in the next long paragraph beginning, "The Air Force P.W. camps were under G.A.F. administration..." We have gone into that, if Your Lordship agrees, in detail—the Air Force side of it. I did not intend to put that.

Then I want you to come to where it says, in the paragraph after you talked about the question of handing over prisoner-of-war camps to Himmler's organization—you see it reads, "We were told all men who get away are to be shot!" It may be the beginning of the next paragraph in my English version. Do you see it after a long paragraph about Air Force camps?

WESTHOFF: What page please?

SIR DAVID MAXWELL-FYFE: The trouble is the pages are different, but it begins, "We were told all men who get away are

to be shot..." It is the third last paragraph of the document. If you start from the end of the document, you will see a paragraph: "I cannot remember..." One before it: "We arranged with the 'Feldmarschall'..." It is the one before that: "We were told all men who get away are to be shot..." Have you got it?

"The 'Feldmarschall' prohibited anything concerning this to be put into writing. Nothing at all. Only the camp was to be informed in order to put them in the picture. I discussed the matter with Graevenitz once more. I can't tell you the exact details anymore. We contacted the Gestapo regarding the return of the bodies. We had to have them back. Then Von Graevenitz left for the front."

Now it is the next bit I want you to look at carefully.

"I then said to Oberstleutnant Krafft, 'I won't do it like that; I am going to cover myself at all costs so that we are not involved in it afterwards. It is true the "Feldmarschall" has forbidden it to be put in writing, but I want to have it in writing. It must be signed by the Führer.'"

Now that is what you said to Krafft—comparatively unimportant.

WESTHOFF: That is not entirely correct.

SIR DAVID MAXWELL-FYFE: Tell us what you would like altered in it.

WESTHOFF: I wanted it in writing, signed by the Field Marshal, and for this purpose I issued a memorandum describing this discussion. And thus I had the Field Marshal's signature with my office for future events so that I would have something in writing to prove it actually true.

SIR DAVID MAXWELL-FYFE: Now, just look at the next sentence. I think that entirely agrees with what you have said:

"Contrary to Feldmarschall Keitel's orders—I pretended that I had not understood properly—I worked the thing out on paper. I said to Oberstleutnant Krafft, 'I want to have the word "shoot" included so that Keitel can see it in writing. He may adopt a different attitude then.'

"When I got the thing back, he had written the following in the margin: 'I did not definitely say "shoot"; I said, "Hand over to the police or hand over to the Gestapo.'"

WESTHOFF: That is not entirely correct.

SIR DAVID MAXWELL-FYFE: What change would you like to make in that, General?

WESTHOFF: I stated that clearly in my sworn statement, that the Field Marshal had written on the margin, "I did not say 'shoot,' but 'turn over to the Gestapo.'"

SIR DAVID MAXWELL-FYFE: Is that the same as is in this statement? It says he wrote in the margin, "I did not definitely say 'shoot.' I said, 'hand over to the police or hand over to the Gestapo.'"

WESTHOFF: Well, that is right.

SIR DAVID MAXWELL-FYFE: I wanted this to be quite clear, General. The draft order or note of information that you had put up to the Field Marshal contained the word "shoot"?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: Now there is only one other bit. You go on to say:

"We arranged with the 'Feldmarschall' to have the matter submitted to the Führer. We had the feeling that there was something not quite in order."

And then you say that you had to approach the police authorities on a slightly lower level, and about 10 lines down you say this:

"In the end, I could not get where I wanted with this affair. So I went to Berlin myself—it was the only time I ever saw Kaltenbrunner—and I said to Kaltenbrunner, 'This matter is still outstanding. It should be submitted to the Führer. I can't carry on like this. A decision must be made some time. But apart from that, I am of the opinion that the whole affair should be dropped. The whole thing is madness. It has already let us into so much unpleasantness and is so monstrous that I am still of the opinion that this affair should either be stopped in some way or the Führer be dissuaded from continuing it any further.'"

Is that generally, again, in substance, a correct version of what you said to the Defendant Kaltenbrunner?

WESTHOFF: This does not directly concern this matter, however, but rather an order that was to be issued by Wagner in connection with it and to be submitted to the Führer in two ways, one via the chief of the OKW and the other via Himmler. This order had been submitted to Keitel in draft form which then went to the Gestapo. The Gestapo read this draft, and then the matter was carried no further. I was never able to find out why this was so, and for this reason I myself duly addressed Kaltenbrunner about this matter.

SIR DAVID MAXWELL-FYFE: Was this the order in its final form, that escaped prisoners of war should be handed over to the Gestapo or the police?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: I see. So this, General Westhoff, if I may have your attention, was really dealing with the future, was it? This was dealing with what was to be done in the future?

WESTHOFF: Yes.

SIR DAVID MAXWELL-FYFE: My Lord, I don't think one need go into it in details again, unless the Tribunal want. My Lord, the rest of the statement is only a general account of the attitude of the British prisoners of war, and I have no complaint about it at all.

My Lord, there is one problem that has arisen which perhaps the Tribunal would now consider the convenient time. My friend, Colonel Pokrovsky, has certain quite different matters with regard to the treatment of Soviet prisoners of war which he wanted to raise with this witness, and perhaps the Tribunal would consider it a convenient time to do it.

THE PRESIDENT: It probably would be more convenient if Dr. Nelte put his questions to this witness, if he has any, first, before Colonel Pokrovsky.

SIR DAVID MAXWELL-FYFE: I should respectfully agree to clear up this topic first.

THE PRESIDENT: Unless Colonel Pokrovsky's questions might relate to the Defendant Keitel?

SIR DAVID MAXWELL-FYFE: They do relate, of course, to the position of the OKW with these prisoners of war, but they have nothing to do with Sagan.

THE PRESIDENT: Dr. Nelte, have you any questions you want to put to this witness?

DR. NELTE: Witness, what was just read to you was called a "statement" and was presented here. Have you ever given this statement in complete form orally or in writing?

WESTHOFF: I was interrogated on different occasions, and this interrogatory which has been presented to me is a summation of my testimony. Of course, I found errors here and there because it has been summarized, and the questions have been omitted.

DR. NELTE: In other words, this is a summation of the answers you gave to questions at various interrogations?

WESTHOFF: Yes.

DR. NELTE: Was this summation ever submitted to you?

WESTHOFF: No.

DR. NELTE: I had the impression that the passages read to you here just now were on occasion very long and that you actually answered always only the latter part of these passages. I should

like to ask you whether after this interrogation in London you were not again interrogated?

WESTHOFF: I was interrogated here in Nuremberg.

DR. NELTE: By Colonel Williams?

WESTHOFF: Yes.

DR. NELTE: What did Colonel Williams say to you at the conclusion of this interrogation? What did he request of you?

WESTHOFF: At the conclusion of the interrogation, Colonel Williams asked me to describe briefly the basic central point of my testimony and to sum it up in a sworn statement.

DR. NELTE: Did you swear to this statement before Colonel Williams?

WESTHOFF: Yes, I swore to it.

DR. NELTE: Now, I should like first of all to go through with you the interrogation that you had with Colonel Williams, and which is to be found in Document RF-1450. I am having this document handed over to you.

THE PRESIDENT: What do you mean by Document 1450?

DR. NELTE: RF-1450 is contained in the document book, in my document book as Number 5.

THE PRESIDENT: But you mean RF-1450, do you?

DR. NELTE: Yes, RF. This document is entitled, "Summary of Interrogation of General Adolf Westhoff by Colonel Curtis L. Williams, on 2 November 1945."

THE PRESIDENT: Just one minute, Dr. Nelte. Dr. Nelte, the Tribunal think that you can put to this witness, "Did you or did you not make a different statement in an interrogation at some other time?" But the document that you are referring to now is a document which the Tribunal refused to admit on your objections. When the French presented that document, you objected to it and it was therefore not allowed to be put in, so that the proper way in which to put the question now is, "Did you say to Colonel Williams so and so?"

DR. NELTE: I have here a compilation of those points in the document or in the notes of Colonel Williams which according to your declaration are supposed not to be correct. I now ask you, what did you, or did you not upon being questioned by Colonel Williams...

THE PRESIDENT: Dr. Nelte, it is not right for you to say that they are different—you must ask him questions about it, not make statements yourself.

DR. NELTE: What did you say to Colonel Williams to his question, whether the prisoner-of-war camps in their entirety were supposed to be subordinate to the OKW and to Field Marshal Keitel?

WESTHOFF: The prisoner-of-war camps were subordinate to the OKW only to the extent that the OKW had the legal control of them and insofar as the protective powers, that is, the International Red Cross was involved. The OKW did not have the power to give orders or dole out punishment in the camps.

DR. NELTE: What did you answer to Colonel Williams' question, on the right of the OKW regarding the inspection of the camps?

WESTHOFF: The OKW was entitled to inspect. That can be seen also in my official orders in which it states clearly that the inspector was entitled to inspect the camp.

DR. NELTE: What did you answer to Colonel Williams' question, to whom Stalag Luft III, Sagan, was subordinate?

WESTHOFF: Stalag Luft III, Sagan, was subordinate to the Commander-in-Chief of the Luftwaffe, because the Commander-in-Chief of the Luftwaffe, on his own wish and already at the beginning of the war, had all prisoner-of-war camps containing airmen placed under his control.

DR. NELTE: Did you answer to one of Colonel Williams' questions that Göring, Himmler, Keitel, and Hitler had decided to shoot the officers who escaped in Sagan?

WESTHOFF: No, that is a mistake. Colonel Williams asked me what the Führer had said to Field Marshal Keitel; thereupon, I answered clearly that I could give no information about this, since I had not taken part in that conference. I could only make statements about the conference which Field Marshal Keitel had with General Von Graevenitz.

DR. NELTE: Did you answer Colonel Williams that Field Marshal Keitel, during this conference with Graevenitz, said, "This is my order"?

WESTHOFF: No, the Field Marshal could not issue an order regarding the shootings, since the shootings were not within the competence of the Wehrmacht but in that of the Gestapo.

DR. NELTE: During your interrogation, particularly also with Colonel Williams, did you state clearly that it never had been a question of an order issued by Keitel himself or of an order which Keitel transmitted to you on higher orders?

WESTHOFF: It concerned information given to General Von Graevenitz. That is also stated with no reservations in my sworn statement.



DR. NELTE: Then, if I understand you correctly, you declare that Field Marshal Keitel never issued an order of his own nor ever expressed the idea that he at all wanted to give you an order regarding a shooting of the officers?

WESTHOFF: No, that he could also not do.

DR. NELTE: During the previous interrogation by the prosecutor there was talk of a report which the camp commander at Görlitz is supposed to have delivered to you. This is also in the notes. Did you ask for or receive a report from the camp commander?

WESTHOFF: I had no personal connection at all with the camp commander at Görlitz. That must be a confusion with the statement of the Swiss representative, Naville.

DR. NELTE: Is it correct that during the discussion between Keitel, on the one hand, and General Von Graevenitz and you, on the other, two matters were brought up: First, the case of the escaped Royal Air Force officers; and, second, the question as to what should be done in the future, or how escapes should be prevented?

WESTHOFF: Yes, that is so.

DR. NELTE: I now have questions to ask you which I request you to answer, if possible, with "yes" or "no." Is it true that in the first case, namely, the affair of the 50 Royal Air Force pilots, only conversation afforded the possibility of gaining information of what had happened in the higher circles?

WESTHOFF: Yes.

DR. NELTE: Did General Graevenitz, upon his return from headquarters, not say to you, "What can we do at all if the Gestapo once gets things into their hands"?

WESTHOFF: Yes.

DR. NELTE: In other words, it is clear from your whole conversation with Keitel, that it was a question here of an order directed to Himmler from Hitler?

WESTHOFF: In regard to the shooting, yes.

DR. NELTE: After Professor Naville visited the Sagan Camp, did he say to you that his impression was that certainly stronger forces were at work here against which the OKW could do nothing?

WESTHOFF: Yes, he said that.

DR. NELTE: With reference to the escaped pilots, did the OKW do anything regarding their capture or treatment, or was it clear that in this respect this matter was unfortunately settled so far as the OKW were concerned?

WESTHOFF: The OKW could do nothing further because the matter had been taken entirely out of their hands.

DR. NELTE: Accordingly, then, it is not correct to say that, after this discussion between Keitel, Graevenitz, and Westhoff, a conference was again called by the OKW?

WESTHOFF: No, there was no further conference in the OKW.

DR. NELTE: A document has been submitted in which Colonel Walde—it is Document D-731, Mr. President—in which Colonel Walde deposes—and to be sure, he says at the beginning that he had to reconstruct from memory what had happened—according to his recollection, he believed that the OKW had called a conference that took place in the Prinz Albrechtstrasse. Do you know anything about that?

WESTHOFF: I only know about this conference from you yourself. It could not have been called by the OKW, for then it would have been held by us in Torgau. Without a doubt, however, it was held in Berlin, as you told me, and that is no conference called by the OKW.

DR. NELTE: Is it correct that prisoner-of-war officers recaptured by the Wehrmacht were again put in the Sagan Camp and also remained there?

WESTHOFF: Yes, that is right.

DR. NELTE: Were recaptured prisoners of war, who were turned over to the camp in any case, let out again?

WESTHOFF: No.

DR. NELTE: On the other hand, is it true that you gave the camp commander strict orders on the part of the OKW that recaptured prisoners should under no circumstances be let out of the camp again?

WESTHOFF: The order was not given by me to the camp commander but to the commanders in the military administrative districts in charge of prisoners of war.

DR. NELTE: But by them to the camps?

WESTHOFF: To the camps, yes.

DR. NELTE: An order was mentioned to the effect that the names of the escaped prisoners who had not come back, were to be published. You stated before "as a warning." In order to clarify this question—the purpose of this order which, of course, came from above—I should like to ask you whether Field Marshal Keitel did not say as justification, "I hope, however, that the prisoners will be so shocked by this that in the future they will not escape any more"?

WESTHOFF: Yes, the Field Marshal said that.

DR. NELTE: You deposed, or rather, it was read to you that Field Marshal Keitel said to you and General Von Graevenitz that nothing should be put down in writing about the whole matter, nor should it be discussed with any other office.

WESTHOFF: Yes.

DR. NELTE: Is it then correct to say that you drew up a memorandum regarding this matter, namely, the conference, and had it submitted to Keitel?

WESTHOFF: Yes.

DR. NELTE: Is it correct that Field Marshal Keitel did not find fault with this fact as one might certainly really have expected but wrote his initial "K" on the upper corner of this memorandum?

WESTHOFF: Yes.

DR. NELTE: Is it furthermore correct that you, because you had to report, repeatedly got in touch with the Reich Security Main Office in order to find out something about the fate of these unfortunate officers?

WESTHOFF: Not only did I get in touch with the Reich Security Main Office but, since I myself did not succeed in this effort, I also reported the matter to the General Office of the Wehrmacht, but as far as I know, it also did not succeed in this effort.

DR. NELTE: Is it further correct that you asked the representative of the International Red Cross, Dr. Naville, to visit the Sagan Camp in connection with this event?

WESTHOFF: I brought about this visit, yes.

DR. NELTE: Is it furthermore true that Field Marshal Keitel called you up and told you that the Foreign Minister had to have precise knowledge of the whole occurrence, in order to draw up a note of reply?

WESTHOFF: Yes.

DR. NELTE: And that consequently you were to tell the Foreign Office about the occurrence in all its details?

WESTHOFF: Yes.

DR. NELTE: Did Keitel say on this occasion that you were to conceal anything or to put anything in a false light?

WESTHOFF: No.

DR. NELTE: Was the OKW involved in the composition of the note as it was sent in final form?

WESTHOFF: No.

DR. NELTE: Is it correct that your representative, Lieutenant Colonel Krafft, was ordered by the Foreign Office to attend a meeting in Berchtesgaden for the sole purpose of giving correct information in reply to possible further inquiry by the representative of the Foreign Office, in case the information were demanded?

WESTHOFF: Yes.

DR. NELTE: Is it finally correct that Lieutenant Colonel Krafft reported to you that the Foreign Office had presented a note to Hitler, and Hitler had rejected it and then composed the text himself?

WESTHOFF: So far as I recall, that is right.

DR. NELTE: The second part of the conferences between Keitel, Graevenitz, and Westhoff concerned itself with the question of what action should be taken in the future. You stated in this connection that an order was to be drawn up, and that it was a question of certain spheres of competence that had to be discussed with the Reich Security Main Office. Tell me in this connection what, if anything, did the Reich Security Main Office or Himmler have to do with the administration of prisoners of war?

WESTHOFF: Himmler was responsible for the security of the Reich and, insofar as all the prisoners of war were concerned, he had to concern himself with the search for all escaped prisoners.

DR. NELTE: Did he, because of this, come into conflict in any way with your OKW Prisoner of War Department?

WESTHOFF: Insofar as we often asked, whenever prisoners of war escaped, what had been done with them and received no information, or information with which we could do nothing, for which we had no use.

DR. NELTE: Does that mean that it was possible that Himmler or his office gave you no information when they caught prisoners of war?

WESTHOFF: That is absolutely possible, and we also supposed that such was the case repeatedly.

DR. NELTE: Did you on one occasion, while drawing up or drafting orders which were concerned with the treatment of escaped prisoners of war, use the words "Stufe III"?

WESTHOFF: No.

DR. NELTE: Do you know whether the meaning of these words signifying a death sentence were known at all in the OKW?

WESTHOFF: They were not known to me. I was asked about that the first time in London and had to state then also that I could not give any information about that.

DR. NELTE: When you say, you personally, then you probably mean the organization as well, since you belonged to the OKW.

WESTHOFF: Yes.

DR. NELTE: I have a document here, Number 1514-PS. It concerns a collective order of the commander of Wehrkreis VI regarding the treatment of escaped prisoners of war. You will see in this order a whole number of references to years as far back as 1942.

I ask you now according to your knowledge and experience, would not an order supposed to have been issued on 4 March 1944 also have been entered here, had its contents been very important?

WESTHOFF: If it was a question of a secret order, yes.

DR. NELTE: It is in the German...

THE PRESIDENT: Just a minute Dr. Nelte. Aren't you getting very far away from the subject upon which this witness was being examined? I mean, he was being examined about an interview which he had with the Field Marshal Keitel, and here you are asking him about something which has nothing to do with that at all, as far as I am able to see.

DR. NELTE: I believe that I shall make clear that this has something to do with the second part of this conference, namely, regarding the treatment of recaptured escaped officers. These are preparatory questions that I must ask to make clear, in my opinion...

THE PRESIDENT: But it is a very long cross-examination of a witness whom you did not wish to call. The Tribunal wish you to make your cross-examination as brief as possible.

DR. NELTE: I shall make it as brief as the interests of the defendant permit.

*[Turning to the witness.]* Is it not customary in the German system of issuing orders that in referring to an order issued by higher authorities the date and archive number is given?

WESTHOFF: Yes, always.

DR. NELTE: Did you ever give any information to the representatives of the protecting powers or to the International Red Cross that prisoners of war, of whose capture you were fully aware, that these had not been recaptured?

WESTHOFF: No.

DR. NELTE: Do you know anything about—and here I have the last document shown you, 1650-PS...

*[Document 1650-PS was submitted to the witness.]*

THE PRESIDENT: What was the point of showing 1514-PS to him? He has not been asked any relevant questions about it at all.

DR. NELTE: From this document I found corroboration of the answer of the defendant through the witness that if an order had been issued on 4 March 1944, as it was presented here, it would have had to be contained in this document.

THE PRESIDENT: The Tribunal think it is a waste of time, Dr. Nelte.

DR. NELTE: I shall be through in a few minutes, Mr. President.

[Turning to the witness.] Witness, would you please look on Page 3 of this document, under Number 2. It reads:

"The OKW is requested to inform the prisoner-of-war camps that in the interest of camouflage the recaptured officers are not to be turned over directly to Mauthausen but to the local State Police authority."

Did you ever in your activity in the OKW know anything of such a request or such an order?

WESTHOFF: That is not familiar to me. That also took place at a time when I was not chief.

DR. NELTE: But on taking over on 1 April 1944 you must have known of all important events or must have taken note of them?

WESTHOFF: Yes.

DR. NELTE: Did you ever find out in this connection that such a document had been presented?

WESTHOFF: No, I do not know of it.

DR. NELTE: And now the last question. Look at the first page of this document. It is a teletype from the Chief of the Sipo and SD, of 4 March '44. It reads in the first part as follows:

"The OKW has ordered the following: Every recaptured escaped prisoner of war officer"—*et cetera*—"is, after his recapture, to be turned over to the Chief of the Sipo and SD with the code word 'Stufe III'..."

The Defendant Keitel has stated here that he does not know of such an OKW order.

I ask you, did you find such a command, such an order in the files, in the files which must have been presented to you when you took over office on 1 April 1944?

WESTHOFF: I did not find such an order, but an order of this kind existed without a doubt.

DR. NELTE: In what way?

WESTHOFF: So far as I recall, General Graevenitz brought this order either from the field headquarters or from the General Office of the Wehrmacht.

DR. NELTE: How is it possible then that such an order was not in your files?

WESTHOFF: Because there was an order that this order was to exist only orally.

DR. NELTE: Then please tell me what the procedure was when such an order was given orally.

WESTHOFF: It could be transmitted orally.

DR. NELTE: That is, your office?

WESTHOFF: It was then transmitted through the Chief of the Prisoner of War Department.

DR. NELTE: Chief?

WESTHOFF: Yes.

DR. NELTE: And you know that such an order was transmitted?

WESTHOFF: General Von Graevenitz brought such an order with him and, as far as I know, the order was also transmitted further.

DR. NELTE: Then you certainly must have known what "Stufe III" meant?

WESTHOFF: No, that I did not know. I have said that I knew only that there was an order to turn over these recaptured prisoners to the Gestapo but I cannot remember details because I never saw a written order.

DR. NELTE: Can you then state that this order, as you see it there before you, was issued by the OKW?

WESTHOFF: No, that I cannot say.

DR. NELTE: Thank you.

THE PRESIDENT: The Tribunal will adjourn.

*[A recess was taken.]*

DR. KURT KAUFFMANN (Counsel for Defendant Kaltenbrunner): Mr. President; permit me to put only a few questions which refer to the Defendant Kaltenbrunner. Witness...

THE PRESIDENT: Dr. Kauffmann, we are going to call the Witness Wielen afterwards. You realize that?

DR. KAUFFMANN: Yes.

THE PRESIDENT: But you want to ask this witness questions, don't you?

DR. KAUFFMANN: The name Kaltenbrunner has been mentioned here, and I have only a few questions.

*[Turning to the witness.]* Witness, you mentioned a little earlier that you spoke with the Gestapo, and that you received no information from the Gestapo. Do you know with whom you spoke at that time?

WESTHOFF: No. The conferences with the Gestapo took place continuously. In cases when we missed prisoners of war and we did not know where they were, we continuously made inquiries at the Gestapo. But, on one occasion I was with Kaltenbrunner—namely, on the occasion of some other matter which had nothing to do with Allied prisoners of war—and since this occasion gave me the opportunity to talk to Herr Kaltenbrunner personally, I immediately brought the matter up for discussion and tried to have that order rescinded. Kaltenbrunner and Müller were present at the time.

DR. KAUFFMANN: Later on in Berlin after the Sagan case you talked to Kaltenbrunner personally?

WESTHOFF: Yes.

DR. KAUFFMANN: Was the Sagan case discussed there?

WESTHOFF: I talked about the Sagan matter there with Kaltenbrunner, and I expressly pointed out that this was an unbearable situation.

DR. KAUFFMANN: About how long after the Sagan case was that?

WESTHOFF: I cannot tell you that any more now; it may have been 4 weeks later.

DR. KAUFFMANN: What was Kaltenbrunner's view on this problem? What did he tell you?

WESTHOFF: Kaltenbrunner himself said next to nothing to me, but rather Müller carried on the conversation, and I left without having been given either "yes" or "no."

DR. KAUFFMANN: Was Müller also present during the second conference in Berlin?

WESTHOFF: I was in Berlin only once.

DR. KAUFFMANN: Wasn't the subject of that conversation in any way the question as to how one was to form the prisoner of war system in the future?

WESTHOFF: No.

DR. KAUFFMANN: In other words, the Sagan case was discussed exclusively?

WESTHOFF: Not the Sagan case exclusively. But I was ordered to see Kaltenbrunner for another reason, namely, because of German prisoners of war, but made use of the opportunity to discuss this



case with him at once. That is the only time that I saw Kaltenbrunner at all.

DR. KAUFFMANN: During that conference you neither received a positive nor negative answer?

WESTHOFF: That is correct.

DR. KAUFFMANN: What was the impression with which you left that conference?

WESTHOFF: The impression was that apparently not much could be done.

DR. KAUFFMANN: Did you then report to your superiors about this conference?

WESTHOFF: Yes, I duly informed the General Office of the Wehrmacht about it at that time.

DR. KAUFFMANN: What was the content of that report?

WESTHOFF: That I had again spoken with Herr Kaltenbrunner about it.

DR. KAUFFMANN: Well, that alone, Witness, would certainly not be enough. In this important matter you must certainly have reported then about the business of that conference, not just about the fact?

WESTHOFF: Of course, I reported about the business; that I had brought the matter up again, and that the Gestapo took the attitude that they wanted to wait.

DR. KAUFFMANN: I have no further questions, Mr. President.

DR. OTTO STAHLER (Counsel for Defendant Göring): Witness, did you depose the statement from your own knowledge or did you learn of this fact only through Field Marshal Keitel, namely, the fact that the meeting mentioned by you between Hitler, Himmeler, and Keitel regarding the escape of these 80 flyers is supposed to have taken place in the presence of Reich Marshal Göring?

WESTHOFF: I learned of it through Field Marshal Keitel.

DR. STAHLER: I have no further questions.

*[Dr. Laternser approached the lectern.]*

THE PRESIDENT: Dr. Laternser, if you are going to ask questions on behalf of the High Command—is that what you wanted to do?

DR. LATERNSENER: I was going to ask the witness a few questions on behalf of the OKW and the General Staff.

THE PRESIDENT: The witness has given his evidence about the fact that the OKW had nothing to do with these matters in

connection with prisoner-of-war camps and he has not been cross-examined with reference to that by the Prosecution; so that the matter is not in dispute. And therefore it appears to the Tribunal that no question need be put by you.

You better specify your question.

DR. LATERNSEER: Mr. President, up to now the procedure has been that whenever a witness appeared, every Defense Counsel had the opportunity to ask this witness questions which he considered necessary. Are we now going to depart from that?

THE PRESIDENT: I did not ask you to argue the matter; I asked you to specify your questions.

DR. LATERNSEER: Very well.

[Turning to the witness.] Witness, were you yourself active in the Eastern campaign?

WESTHOFF: Yes.

DR. LATERNSEER: In what capacity?

WESTHOFF: First of all in command of a battalion and then a regiment.

DR. LATERNSEER: In what sector was your unit engaged?

WESTHOFF: To begin with, in the Ukraine; later before Lenin-grad, and then at Staraya-Russa.

DR. LATERNSEER: Before the beginning of the Eastern campaign did you give special instructions to your company commanders?

WESTHOFF: In what respect?

DR. LATERNSEER: After you had received the order to attack, I assume you must have gathered your company commanders together as battalion commander and discussed some orders with them before the beginning of the campaign.

WESTHOFF: I told them how they had to conduct themselves during the battle, how they had to behave toward the Russian population, and how they had to act toward the prisoners of war.

DR. LATERNSEER: Yes, and what kind of instructions did you give your company commanders?

WESTHOFF: I very briefly gave the company commanders instructions that every prisoner of war was to be treated as he would like to be treated himself were he to become a prisoner.

DR. LATERNSEER: You said that specifically?

WESTHOFF: Yes, that was ordered.

DR. LATERNSEER: How did the troops behave when they marched in?

WESTHOFF: We fought practically all the way to Kiev, and were marching, and had hardly any contact with the civilian population.

DR. LATERNSEER: During the advance into Russia did you notice considerable destruction?

WESTHOFF: Partly, yes; in part, villages had been destroyed. Also small towns had been destroyed.

DR. LATERNSEER: Railways?

WESTHOFF: Railways also, yes.

DR. LATERNSEER: Industrial works?

WESTHOFF: Yes—I saw that afterwards outside of Leningrad—yes indeed!

DR. LATERNSEER: In your sector was the order carried out by which Soviet Russian commissars were to be shot after being taken prisoners?

WESTHOFF: We had nothing to do with that. Prisoners of war that we took were all sent back to the division right away. We ourselves, the troop commanders—regimental and battalion commanders—had nothing to do with it, had even no opportunity at all to do this.

DR. LATERNSEER: Witness, you have not answered my question correctly. I have asked you whether you had applied the order.

WESTHOFF: I know nothing about it.

DR. LATERNSEER: Did you ever receive the order to take action against the Jewish population in Russia?

WESTHOFF: No.

DR. LATERNSEER: Did your troops ill-treat or shoot civilian persons or prisoners?

WESTHOFF: No! There was a special order for the maintenance of discipline, stating that this was not to be permitted.

DR. LATERNSEER: Was plundering allowed?

WESTHOFF: No, this was strictly forbidden.

DR. LATERNSEER: Did any plundering occur?

WESTHOFF: Not by my troops.

DR. LATERNSEER: Did members of your unit commit rape?

WESTHOFF: No; in no case known to me.

DR. LATERNSEER: Was the civilian population compelled to clear the houses for complete occupation by the troops?

WESTHOFF: No. There was merely an order saying that those houses in which the offices were set up had to be cleared. Other

houses did not have to be evacuated, and as a rule the system was that I, for example, whenever I was billeted, would always sleep in the same room with the people who lived there.

DR. LATERNSEER: Have you experienced destruction which was not due to military necessity?

WESTHOFF: No.

DR. LATERNSEER: Have you on occasion or frequently fed the hungry civilian population from the field kitchens?

WESTHOFF: The regiment was ordered that all food which was surplus in the regiment was to be issued to the population mostly at midday or in the evening, so far as we had any contact at all with the population.

DR. LATERNSEER: Yes. And then one last question: Do you consider it possible that German soldiers invited Russian children for coffee, and then killed these children by giving them poisoned cake?

WESTHOFF: No.

DR. LATERNSEER: I have no further questions.

THE PRESIDENT: You aren't suggesting, are you, that this witness is one for the High Command?

DR. LATERNSEER: No, no.

THE PRESIDENT: Are you suggesting that you ought to be entitled to examine every witness who has any military rank on behalf of the High Command.

DR. LATERNSEER: Mr. President, as far as I understood it, it has been the rule up to now, and the procedure has been, that every means of evidence—thus also witnesses who are brought in here—could be examined by everyone of Defense Counsel; and I have adhered to that rule up to now, and also felt that it was my duty to put those questions which I have put to the witness.

THE PRESIDENT: Dr. Laternseer, I asked you very simply: Are you suggesting that you are entitled to ask questions on behalf of the High Command of every person who is called here who has any military rank?

DR. LATERNSEER: Yes, Mr. President.

THE PRESIDENT: Well, it seems to me that would be highly cumulative. We shall then have evidence on behalf of the High Command from possibly 30 or 40 witnesses. And when you say that it has been allowed in the past, every other member of the Defense has been confined to evidence, so far as possible, which is not cumulative. That is the reason why I interrupted you, because it seems

to me if you are going to do that, to claim the right to ask questions of everybody who has military rank—and you have done it up to now—the evidence is going to be extremely cumulative on your part.

DR. LATERNSEER: Mr. President . . .

THE PRESIDENT: You see, Dr. Laternser, the questions you have been putting to this witness are questions directed to show that the regimental officers and soldiers in the German Army behaved properly and could not be expected to behave improperly. That does not seem to be really relevant to the questions to whether the High Command is a criminal organization or not. And in any event it is—in my opinion, at any rate—cumulative if you do that.

DR. LATERNSEER: Mr. President, already so much heavily incriminating material regarding the Wehrmacht has been presented, especially by the Russian Prosecution, that the Russian Prosecution are definitely of the opinion that relevant orders were issued from above, that is to say, issued by the people comprising the circle of the General Staff and the OKW. By questioning this witness, who was a regimental commander, I wanted to establish whether any effects extended downwards. This statement has confirmed me in the fact that this is not the case. Otherwise, I must . . .

THE PRESIDENT: Anyhow, Dr. Laternser, we have your position now, and the Tribunal will consider how far you may be allowed to proceed in future.

DR. LATERNSEER: Very well.

THE PRESIDENT: Now, Colonel Pokrovsky.

COL. POKROVSKY: It seems to me, Witness, that on 28 December 1945 you were interrogated by a representative of the Soviet Prosecution; is that not so?

WESTHOFF: Yes, sir.

COL. POKROVSKY: You gave correct and accurate testimony, did you not?

WESTHOFF: Yes.

COL. POKROVSKY: Would you please confirm some of your answers to the questions that you were asked then? I will help you to recollect the questions that were put to you.

WESTHOFF: Yes.

COL. POKROVSKY: In your section there were, as you stated, six different subdivisions or departments?

WESTHOFF: Yes.

COL. POKROVSKY: You said that the first subdivision of the section—that is, I mean the section (Allgemeine Abteilung) which

you headed from 1 March 1943 up to 31 March 1944—was dealing with prisoners of war. Is that correct?

WESTHOFF: Yes.

COL. POKROVSKY: Now, the first subdivision of this section was concerned in general with the treatment of prisoners of war and, in particular with the questions of punishments and legal proceedings. This subdivision got the reports on the moods and reactions and was in constant touch with the Abteilung Abwehr (counterintelligence section). Is that correct?

WESTHOFF: With the Abwehr, yes.

COL. POKROVSKY: Now, in connection with the reply which you gave to that question, I would like you to state to the Tribunal right now, just how much or what did you know about the way the Soviet prisoners of war were treated, both in concentration camps and during transference from one camp to another.

WESTHOFF: As far as I know, until 1942, the Russian prisoners of war were treated on the basis of purely political considerations. After 1942 this was changed, and in 1943, as long as I was in the German High Command, prisoners of war were treated in accordance with the Geneva Convention, that is to say, in all points their treatment was adapted to that of the other prisoners of war. Their rations were the same as those of the others, and their employment and their treatment was in every detail in accordance with the treatment given prisoners of war of other powers, with certain exceptions.

COL. POKROVSKY: If I am not mistaken, the fourth subdivision of your department was especially concerned with the questions of feeding and clothing the prisoners of war. Is that correct?

WESTHOFF: The task of Group IV was matters of administration. It had to elaborate the instructions regarding rations, along with the Ministry of Food and Agriculture. It also had to deal with clothing.

COL. POKROVSKY: If I understand you correctly you have stated that until you took charge of the Prisoner of War Department the information which you received about the Soviet prisoners of war was to the effect that the Soviet prisoners of war were not treated according to international law. Is that correct?

WESTHOFF: No, I said that prisoners of war during the first years were treated on the basis of political considerations, which originated not from the OKW but from Hitler personally.

COL. POKROVSKY: Just what do you want to say about that?

WESTHOFF: I want to say that they were not treated in accordance with the Geneva Convention until 1942.

COL. POKROVSKY: In other words, not according to international law, right?

WESTHOFF: I cannot give you any more detailed information on that, since at that time I was still serving at the front and did not know details regarding these regulations.

COL. POKROVSKY: Very well. Tell me, was there in the OKW a special group or section which dealt exclusively with railway transportation of prisoners of war?

WESTHOFF: The OKW had attached to me a group which brought about the transport of prisoners of war. The transport itself was not a matter for the OKW but a matter for the individual camp commanders.

COL. POKROVSKY: Are you aware under what conditions the transport of the prisoners of war from one camp to another took place?

WESTHOFF: Transports of prisoners of war were ordered by the OKW. The execution of such transports of prisoners of war was a matter for the individual camp commandants who received their orders in this respect from the commanders of prisoners of war in the military administrative districts. The OKW had nothing to do with the actual transport.

COL. POKROVSKY: The question I asked is whether you are aware or were informed under what conditions the transport from one point to another took place. Do you know that thousands of prisoners died en route from cold and hunger? Do you know anything about it at all?

WESTHOFF: The transports, during which prisoners of war died, can at most be traced back to the earlier years when I was not yet in the High Command. As long as I was there, I had no reports on a large scale saying that people lost their lives in large numbers. The orders which the OKW gave regarding transports of prisoners of war were clear-cut and so given that the commanders of the camps concerned were responsible for these transports being carried out in an orderly manner.

COL. POKROVSKY: You have just confirmed that you were aware of the fact that en route prisoners of war died by thousands. Now I would like you to look at a document, Document Number 1201-PS, Exhibit Number USSR-292. It consists, Your Honors, of the minutes of the meeting of the war economy administration of the OKW. It has not been submitted to the Tribunal so far. It is dated 1000 hours, 19 February 1942. The minutes were taken of the meeting which took place at the Reich Chamber of Commerce. The report by Ministerial Director Dr. Mansfeld of the office of the

Plenipotentiary General for the Allocation of Labor was heard. The three lines which particularly interest me are underlined with red pencil on the copy that is before you right now. Look at it, Witness. It states there:

“The utilization of these Russians is exclusively a question of transportation. It is senseless to transport this manpower in open or unheated closed boxcars and then to unload corpses at the place of destination.”

Have you found this place?

WESTHOFF: Yes.

COL. POKROVSKY: Have you heard anything about transports of this kind, wherein, in place of a train of living persons, corpses were unloaded? Have you heard anything about that before you took charge of your particular job in the OKW? Has anyone reported to you about these things?

WESTHOFF: I have heard nothing about these transports, as that did not come under the jurisdiction of the OKW, but came, as is clear from this document, within the sphere of the operational sectors. The jurisdiction of the OKW comprised mainly the German Reich and the border states, and only here did the OKW have authority over the prisoners of war—not in the operational sector, not in the rear army area. To this extent, it is a matter which did not come to the OKW at all. We received the prisoners of war from the Army, and then we were informed that we would receive so-and-so many prisoners of war, and we took them into our camps. What happened to those people in the operational territory was something we could not control in detail.

Apart from that, this story also goes back to 1942—the time when I was still at the front.

COL. POKROVSKY: Look at the left side of the document at the top. There is a note there that this comes from the War Economy and Armament Office of the OKW does it not? Left, at the top, under the number K 32/510.

WESTHOFF: My office never had anything at all to do with the Armament Office.

COL. POKROVSKY: Very well. Does it not seem to you that this document confirms the fact that the OKW knew about these transports?

No more questions, Mr. President, to this witness.

THE PRESIDENT: Colonel Pokrovsky, as this document has not been put in before, and as it does not appear whether it has been translated, should you not read the first paragraph of it? It seems to contain material evidence.



COL. POKROVSKY: I will read it now. The first paragraph of the document, the way it appears in the Russian translation, reads like this:

"File note. Subject: Report of the Ministerial Director, Dr. Mansfeld, of the Office of the Plenipotentiary General for the Allocation of Labor, on General Questions Regarding the Allocation of Labor.

"Time: 19 February 1942. 1000 hours; place: Reich Chamber of Economy; present: Dr. Grotius, Wi Rü Amt KVR.

"The present difficulties in the question of the utilization of manpower would not have arisen had we decided in time to utilize the Russian prisoners of war on a larger scale."

This is the first paragraph, Mr. President. Further down there are three lines which interest me in this document:

"There were 3,900,000 Russians at our disposal, of which at present there are only 1,100,000 left. From November 1941 to January 1942 alone 500,000 Russians died."

Have I read sufficiently, Mr. President? It seems to me that that is clear, and further reading of the document is superfluous.

THE PRESIDENT: Go on.

COL. POKROVSKY: "It will hardly be possible to increase the number of the Russian prisoners of war employed at present (400,000). If the typhus cases do decrease there may be a possibility of employing from 100,000 to 150,000 more for the economy. In contrast with that, the employment of Russian civilians is constantly gaining greater importance. There are, all together, between 600,000 and 650,000 Russian civilians available, among whom 300,000 are skilled industrial workers and from 300,000 to 350,000 agricultural workers. The utilization of these Russians is exclusively a question of transportation. It is senseless to transport. . . ."—and so on.

THE PRESIDENT: That is what you read before.

COL. POKROVSKY: That is right. I would like to direct your attention once more to the fact that there is a stamp on the document, "The War Economy and Armament Office of the OKW. . . ."—left corner, at the top.

THE PRESIDENT: Colonel Pokrovsky, that does not appear in our translation, but I guess you are right. At least, I don't see it. Could you let us see your document?

COL. POKROVSKY: The original will be shown to you immediately. The stamp is at the top, in the left corner.

THE PRESIDENT: These letters and numbers indicate OKW although they don't say it?

COL. POKROVSKY: That is right.

THE PRESIDENT: Why do you say that? I mean, the actual letters which are there look to me like R $\ddot{u}$  III Z St AZ i K 32/510 Wi R $\ddot{u}$  Amt/R $\ddot{u}$  III Z St.

COL. POKROVSKY: When you decipher these abbreviations, which has already been done by our American colleagues, then those letters and figures can be understood as corresponding with the facts regarding the structure of the OKW which are at the disposal of the American Prosecution. These are customary abbreviations for the departments and offices.

THE PRESIDENT: The Tribunal would like you to ask the witness whether he knows anything about the employment of the man mentioned a little way further down at the right, Dr. Grotius.

I will ask him.

[Turning to the witness.] Witness, do you know who Dr. Grotius was and whether he was employed in the OKW or in the Army?

WESTHOFF: No, I have never heard the name "Dr. Grotius"; I also never had anything to do with him.

THE PRESIDENT: Have you got the document before you?

WESTHOFF: No, I have not got it any longer.

THE PRESIDENT: I see. Just look at it and see whether the letters which are put in the front of Dr. Grotius' name indicate that he was a member of the OKW?

COL. POKROVSKY: Mr. President, I did not put the question concerning Dr. Grotius since the witness, as he has already told me, entered the Army administration later, in 1943, whereas the document is dated 20 February 1942.

THE PRESIDENT: [To the witness.] Do those letters in front of Dr. Grotius' name indicate that he was in the OKW?

WESTHOFF: I do not know what the letters are supposed to mean; the OKW has also nothing at all to do with this matter.

THE PRESIDENT: Do you know what the letters on the top left hand side of the document mean—the ones I read out just now to you?

WESTHOFF: R $\ddot{u}$  III?

THE PRESIDENT: Yes.

WESTHOFF: That is probably the Armament Office III. That is what it probably means.

THE PRESIDENT: Well, that would be in connection with the OKW, would it not?

WESTHOFF: I am not informed about that since I have never had anything to do with the armament departments. The High Command of the Army, at least my office, had written communications only with the Plenipotentiary General for the Allocation of Labor and the Speer Ministry. Just how it was organized in detail is unknown to me.

THE PRESIDENT: Did you know of, or did you know, Dr. Mansfeld?

WESTHOFF: I did not understand the question.

THE PRESIDENT: Did you know Dr. Mansfeld?

WESTHOFF: No, I did not know him, and I have never heard his name.

COL. POKROVSKY: The question about Dr. Mansfeld could be asked probably of the Defendant Sauckel.

THE PRESIDENT: Colonel Pokrovsky, technically speaking, the Tribunal can't accept from you that these letters at the top mean the OKW. It may be perfectly true, but you can't give evidence about it. So you can prove it some other way perhaps.

COL. POKROVSKY: The scheme of the OKW has already been reported to the Tribunal. Those persons who deciphered these abbreviations are sufficiently competent in this matter, and it seems to me that the witness' affirmation in the court fully proves that the document in question concerns Section III of the OKW. But, generally speaking, it would, of course, be quite easy to prove by comparing it with the scheme of the OKW. We will do it.

THE PRESIDENT: Then the witness can retire.

The Tribunal will adjourn now, and they will want the other witness, Wielen, here at 2 o'clock.

*[The Tribunal recessed until 1400 hours.]*

### *Afternoon Session*

SIR DAVID MAXWELL-FYFE: My Lord, I do not know if Your Lordship wanted the words for which these short collections of letters stand. I have them if Your Lordship wants them—on the last document, 1201-PS.

THE PRESIDENT: Oh, thank you very much; yes.

SIR DAVID MAXWELL-FYFE: My Lord, I think all that Your Lordship need look at is where the name Dr. Grotius appears.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: The Wi. Rü Amt is the Wirtschaftsrüstungsamt, the Economic and Armament Office, which is, Your Lordship will remember, General Thomas' department of the OKW.

My Lord, the other letters "KVR" are Kriegsverwaltungsrat, War Administration Counsellor.

My Lord, I do not think there could be any dispute that the document comes from General Thomas' department of the OKW.

THE PRESIDENT: Yes.

DR. LATERNSEER: Mr. President, may I say something in regard to this document. I want only to point out certain considerations. It must be ascertained from where the heading comes, that is, the first line. The second line, which Sir David just referred to, begins with the letters "AZ." AZ (AktENZEICHEN) means "file number," in other words, a reference to a letter from the Economic and Armament Office. It does not explain however, the author of this document, which can only be ascertained when we find out what the heading, or the first line, means.

THE PRESIDENT: Well, do you understand it?

DR. LATERNSEER: Yes, I understand it.

THE PRESIDENT: Very well.

DR. LATERNSEER: The author of this writing can be ascertained only if we find out what the first line means; because the second line is only the document file number, which is to be seen from the first two letters, "AZ," which means AktENZEICHEN; and in this letter, reference seems to be made to a letter from the Economic and Armament Office.

That is all I have to say in regard to this.

SIR DAVID MAXWELL-FYFE: I do not know if Your Lordship wants any further information. It seems to me quite clear. That is, it is from the file of the department I mentioned, the Wirtschaftsrüstungsamt.

THE PRESIDENT: Yes. You mean it goes back to the same letters.

SIR DAVID MAXWELL-FYFE: The same letters, yes.

THE PRESIDENT: It has just been explained to me that what Dr. Laternser was saying is that the letters "AZ i. K. 32/510" only mean that it is from the file of that department.

SIR DAVID MAXWELL-FYFE: Yes, My Lord. Then, to find the office whose file it is, you get Wi. Rü again, which is the Wirtschaftsrüstungsamt, which is the Economic and Armament Office, and it is the Armament Department, Number III.

THE PRESIDENT: Yes.

Sir David, the Tribunal thought that the best way would be to put this witness in the box and then to leave him to Counsel for the Prosecution and the Defense.

SIR DAVID MAXWELL-FYFE: If Your Lordship please, my friend, Mr. Roberts, is going to deal with this witness, and, My Lord, he has selected the passages quite shortly from the statements which will be read.

THE PRESIDENT: Very well.

*[The witness Wielen took the stand.]*

THE PRESIDENT: Witness, will you stand up please?

MAX WIELEN (Witness): Yes, certainly.

THE PRESIDENT: What is your name?

WIELEN: Max Wielen.

THE PRESIDENT: Your full name?

WIELEN: Max Wielen.

THE PRESIDENT: Will you repeat this oath after me:

I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

*[The witness repeated the oath.]*

THE PRESIDENT: You may sit down.

MR. G. D. ROBERTS (Leading Counsel for the United Kingdom): Max Wielen, you made two statements in London through Colonel Hinchley Cook.

WIELEN: Yes.

MR. ROBERTS: And are these photostats of the two statements—the first one dated 26 August 1945, and the second dated 6 September 1945?

*[The documents were submitted to the witness.]*

Are those the photographs of your true statements? Do you identify them? Do you see your signature at the end of each?

WIELEN: Yes.

MR. ROBERTS: And in those two statements did you tell the truth?

WIELEN: Yes, I told the truth.

MR. ROBERTS: My Lord, perhaps I should now read some passages so that they may go into the record.

[Turning to the witness.] If you take the first statement first—the statement begins with your name and the positions which you held in the SS and in the Criminal Police. That is right, is it not?

WIELEN: Yes.

MR. ROBERTS: And now, will you just follow the beginning of this statement.

WIELEN: Of which declaration, 6 September?

MR. ROBERTS: I said the first one.

WIELEN: The first one? I see.

MR. ROBERTS: Just follow it while I read. I will read the whole of the first page:

“Oberregierungsrat and Kriminalrat, SS Obersturmbannführer . . .”

WIELEN: Oberregierungsrat and Kriminalrat of the Criminal Police, not of the SS . . .

MR. ROBERTS: I do not want you to read it, just listen to me.

“...formerly officer in charge of the Criminal Police at Breslau.

“I have to state in answer to the question, whether I know anything about the shooting of English prisoners of war, Air Force officers of the prison camp at Sagan, that I have knowledge of this matter and wish to make the following statement without reserve.

“The shooting took place on the express personal orders of the former Führer, Adolf Hitler, and was carried out by the officials of the Geheime Staatspolizei.

“The officer in charge of the Staatspolizeileitstelle at Breslau was Oberregierungsrat, SS Obersturmbannführer Dr. Scharpwinkel. His immediate superiors were the Chief of the Sipo, SS Obergruppenführer Dr. Kaltenbrunner, and the Chief of Amt IV of the Reichssicherheitshauptamt, SS Gruppenführer Müller. I am unable to give the names of the officers in

charge of other districts of the Geheime Staatspolizei who carried out shootings in their districts.

"I insert here a small chart showing the organization of the Sicherheitspolizei..."

I now go to the bottom of Page 3 in the English copy, and it is at the bottom of Page 3 in the copy in German, which the witness has in his hands:

"During the course of time"—and this is talking about Stalag Luft III—"99 escape tunnels had been dug. All of them had been discovered by the military. The hundredth tunnel, dug in March 1944, proved successful to the extent that 80 officers were able to escape.

"On receipt of a telephone message from the camp headquarters to the Kriminalpolizeileitstelle, I gave the order for 'Kriegsfahndung,' in accordance with the emergency instructions laid down. At Dr. Absalon's suggestion, and having regard for the time lag, 'Grossfahndung' was ordered. Moreover, the officer in charge of the Reichskriminalpolizeiamt had to be informed, who approved and confirmed the order for 'Grossalarm.'

"Gradually the search, which was carried out in all parts of Germany led to the re-arrest of practically all the escaped English officer prisoners, with the exception of three, I believe. Most of them were recaptured while still in Silesia. A few had got as far as Kiel, Strasbourg, and the Allgäu.

"It was then that one day at noon I received a telegraphic instruction from General Nebe to proceed at once to Berlin to be informed of a secret order. When I arrived in Berlin that evening, I saw General Nebe in his office Am Werdierschen Markt 5/7. I gave him a short, concise report on the whole matter as it stood at the time. He then showed me a teletype order signed by Dr. Kaltenbrunner, in which was stated that, on the express personal orders of the Führer, over half of the officers escaped from Sagan were to be shot after their recapture. The officers in charge of Department IV, Gruppenführer Müller, had received corresponding orders and would give instructions to the Staatspolizei. Military offices had been informed.

"General Nebe himself appeared shocked at this order. He was very distressed. I was afterwards told that for nights on end he had not gone to bed but had passed the night on his office settee.

"I, too, was appalled at the horrible step to be taken and opposed its execution. I said that it was against the laws of war; and that it was bound to lead to reprisals against our

own officers who were prisoners of war in English camps, and that I absolutely refused to take any responsibility. General Nebe replied that in this particular case I had indeed no responsibility whatever, because the Staatspolizei would act completely independently, and that, after all the Führer's orders had to be carried out without demur. I want to point out that when I first refused I acted on impulse and feeling, well knowing that I could not hope to prevail in view of the conditions that had recently arisen within the Sicherheitspolizei.

"Nebe then added that I, on my part, was, of course, under an obligation to preserve absolute secrecy, and that I had been shown the original order so that I should not make any difficulties vis-à-vis the Staatspolizei. My own duties as regards the transport of some of the prisoners would be transferred to the Staatspolizei.

"In this connection I want to explain that until then the bringing back of prisoners to the camp had been the responsibility of the Kriminalpolizei; either they had to take them back to the camp themselves, or they had to hold them until they were fetched by the camp staff. In answer to a question, I declare that Oberregierungsrat Dr. Schulze was present at the discussion with General Nebe. He nodded his head in agreement when I raised my objection, but otherwise took no part in it.

"On my return to Breslau, I learned from Dr. Scharpwinkel that the Geheime Staatspolizei had been duly informed by Gruppenführer Müller. I was not apprised of the actual instructions. I also do not know whether a similar order was issued to every officer in charge of the Staatspolizeileitstellen, or whether orders were only given to those in whose areas arrests had been made and executions were to be carried out.

"According to instructions the police in the districts where arrests had been made had to inform the Reichskriminalpolizeiamt (Kriegsfahndungszentrale) by telegram or telephone that officer prisoners of war had been taken into custody. The Kriminalpolizeileitstelle Breslau was also to be informed.

"How the shooting was carried out, I do not know; but I presume that after the Staatspolizei had collected the officers concerned from the prisons, they were shot in some remote spot—forests, *et cetera*—with pistols, service pistols of the Stapo.

"In answer to the question whether the officers were possibly beaten to death, I state that I do not believe this, because the Führer's order specifically mentioned 'shooting.'



"The Staatspolizei had, in accordance with instructions received from RSHA, Department IV, described the shooting as if it had occurred in transit for the purpose of self-defense or to prevent re-escape. This I afterwards learned from Dr. Scharpwinkel.

"Later the Kriminalpolizeileitstelle Breslau received a letter from the RSHA, Department V, which had to be communicated to the camp commandant with the request that its text should be made known to the English officer prisoners of war in order to frighten them. The letter explained that the shooting had occurred for the above-mentioned reason. The text of the letter was communicated to Oberst Lindeiner or one of the camp staff officers.

"As regards the selection of the officers to be shot, a list had been prepared by the camp authorities, at the request of Department V, in which those officers who were regarded as disturbing elements—plotters and escape leaders—had been specifically mentioned. The names were selected either by the commandant or by one of his officers. Thereupon the shooting of officers mentioned by name was accordingly ordered by Department IV and corresponding instructions sent to the Staatspolizei of the district concerned."

I omit the next paragraph, and I go to the bottom of the English copy, Page 4; at the bottom of the witness' copy, Page 7. Witness, would you turn to Page 7, please. You will find the passage marked in pencil at the bottom of Page 7. Have you got the page? I carefully numbered the pages.

WIELEN: There is nothing marked in this.

MR. ROBERTS: I know, but if you turn over the page you will get something which is marked.

WIELEN: Nothing is marked on Page 7, but on Page 8 . . .

MR. ROBERTS: You will find something marked at the very bottom of Page 7. At any rate, just follow these words—follow these words, will you:

"To revert to the shooting . . ."

WIELEN: Yes, I have found it now.

MR. ROBERTS: "... approximately 40 English officers who had not been arrested by the Staatspolizei but by the Kriminalpolizei had meanwhile been taken back to camp."

When you said that—you just answer this question, Witness; you said approximately 40 officers—you didn't know the actual numbers, did you?

WIELEN: The number is not correct. It was not 40. I did not know at that time.

MR. ROBERTS: That's right, because it isn't the correct number. I think, 50.

WIELEN: I made a mistake at that time.

MR. ROBERTS: That's right.

"They had come to no harm whatsoever; I must assume that..."

WIELEN: Fifteen additional were brought back.

MR. ROBERTS: Yes, yes. I just want you now to listen to it, if you will be kind enough:

"... I must assume that their treatment was perfectly correct. It had been impossible to avoid putting them into police prisons due to the general conditions then prevailing.

"I do not know who interrogated the officers in the police prisons. I assume this was done by the local police authorities, as an interrogation must necessarily follow every notification of arrest. I do not know the names of the officials of the Staatspolizei or the Gemeindepolizei (small local police force) who co-operated in this matter, but Dr. Absalon should be able to supply the answer to this question."

I go on to the paragraph beginning, "The urns..." if Your Lordship please:

"The urns containing the ashes of the officers who had been shot were transmitted by the Staatspolizei to the Kriminalpolizei. Which crematoria had been used by the Staatspolizei, I am unable to say. The urns were handed over to the camp commandant by order of the RSHA for a military funeral. By this means the return of the urns through the Kripo—the fact that the Staatspolizei was connected with the matter was to be camouflaged."

Then I miss the next paragraph. Then I read one sentence, the next line:

"I do not know why five officers were interrogated in Berlin."

And then, My Lord, I turn to Page 6.

And, Witness, would you go to the bottom of your Page 10—the bottom of your Page 10—you just turn over the page in the ordinary way. My Lord, I take the middle paragraph. Just two paragraphs out of Page 6:

"In a general way it may be of interest that, even before my departure for Berlin, Kriminalkommissar Dr. Absalon had told me that he had heard in Camp Sagan—he was told this in

a very secretive way—that shootings were to take place in order to deter the officers. From this may be deduced the fact that the camp had already been informed through military channels of the order to shoot issued by Dr. Kaltenbrunner.

“It would be useful to ascertain what Göring knows about the whole affair, because the Führer must surely have informed him of the order, since it concerned a camp of the Luftwaffe.”  
(Document Number UK-48.)

My Lord, that is all of that statement that I think I need to read. My Lord, I am anxious to avoid reading as much of the second statement as I possibly can, because there is a good deal of repetition.

Will you take the second statement now, Witness? That one, I am afraid, has not been marked.

The third paragraph, My Lord, the third and fourth paragraphs on the first page of the statement:

“As to when the Staatspolizei had begun with the shootings, I am not in a position to say; but I imagine it happened when only very few prisoners were still at large and their recapture could no longer be reckoned with.

“As regards the lapse of time between the order for ‘Grossfahndung’ and being shown the order for the shootings, this could only have been a matter of a few days. I can no longer recall exact dates. I do know however, for certain, that no shootings had taken place anywhere at the time when the order was shown to me.”

Then, perhaps, I could read the last paragraph but one on that page:

“Before the last mass escape had taken place, I had heard nothing about the prospect of more drastic measures to be taken against the prisoners. I heard of it only after the final escape, but before I had been shown in Berlin the order for the shootings. It was then that Dr. Absalon had told me that he had heard in Sagan Camp—from whom I do not know, although I believe it was from Colonel Lindeiner—that in future shootings would take place. When this particular order was shown to me in Berlin, it appeared to me to be merely a proof that the military were behind this brutal measure or at least had had knowledge of it before the RSHA.

“As regards the expression ‘more than half’ in the order of Kaltenbrunner, this is how the wording is now fixed in my mind. It is, however, quite possible that a specific number was given, and that I, in quickly glancing through the order, interpreted it thus in my mind, ‘but that is more than half,’ and this is what has now stuck in my memory.”

My Lord, perhaps I might read—omitting the first several paragraphs which are really repetitions—a paragraph just a little more than halfway down the page. It begins:

“I do not know how the Geheime Staatspolizei took over from the local police prisons those officers who were to be shot. It is, however, possible that the Stapo got into touch with the local offices of the Kriminalpolizei.

“In Lower Silesia, the firing squads were detailed by the officer in charge of the Staatspolizei, Dr. Scharpwinkel, or by his orders. I never heard who belonged to these squads.”

Then the last paragraph on that page:

“I declare, in answer to the question as to why the Kripo did not carry out the shootings, that in the execution of its duties the Kriminalpolizei feel themselves bound by the provisions of the Staatsprozessordnung and the Reichsstrafgesetzbuch, and that their personnel were trained in accordance with these standards. On the other hand, during the war, the Staatspolizei had, incited by Himmler, become less scrupulous. They carried out executions on the orders of the RSHA, or with the approval of that department, whenever required. That is the reason why the German citizens' general detestation of the Staatspolizei did not extend to the Kriminalpolizei.

“The urns were obviously returned to the Kriminalpolizei for the sole reason that the intervention of the Staatspolizei should not become publicly known; that is, the English officers in the camp should not become aware of it.”

My Lord, I think that is all I need read.

THE PRESIDENT: Do any of the Defense Counsel want to ask any questions of the witness?

DR. NELTE: Witness, during your activities and during this terrible matter, were you in touch with the OKW or the defendant, Field Marshal Keitel, in any way?

WIELEN: No, neither with the OKW nor with Field Marshal Keitel, nor with any of the other high officers.

DR. NELTE: Did I understand you correctly when you stated that the order that we are talking about here, so far as you know, went through the following channels: From Hitler to Himmler, to the Reich Security Main Office, and then the lower offices?

WIELEN: Yes, that is the correct organizational path.

DR. NELTE: By whom was the list of which you spoke demanded, the list that was to contain the names of those who were the disturbing element?

WIELEN: That was asked for by the Reich Security Main Office.

DR. NELTE: In the second half of what was read just now, a sentence is contained that reads: "The camp commander must have been informed through military officers of the intended shooting ahead of time."

Would you, with regard to this sentence . . .

WIELEN: Well, I should not like to repeat that here so strongly. It is possible, since shootings might have been discussed in the camp, or the fact that more ready use of firearms in general would be taken towards English officers if escapes continued; but in this connection I know nothing more specific, namely, in the connection in which this remark was made.

DR. NELTE: Then you do not want to insist on the fact that we are here dealing with remarks that were made before the escape?

WIELEN: Well, at least not so far as these shootings are concerned; at least not in direct relationship to this particular escape.

DR. NELTE: But it is not possible to know ahead of time if someone is going to escape. For that reason I ask you whether this remark is related to some discussion that took place subsequent to the flight of these officers and which perhaps was directed toward the future prevention of escapes?

WIELEN: That is altogether possible because at Sagan attempts to escape were made daily.

DR. NELTE: Then would you like to clarify the statement, according to which Colonel Lindeiner is said to have stated that military officers stood behind these measures and had been previously informed of them? That is how . . .

WIELEN: I do not believe that I expressed myself just that way. Could you please repeat that?

DR. NELTE: According to my notes, you said that Colonel Lindeiner stated that military officers stood behind this measure and had been informed of it ahead of time.

WIELEN: I do not think that I could have made such a statement.

DR. NELTE: Then do you want to say that you cannot state that Colonel Lindeiner made such an assertion?

WIELEN: I never had the impression that Lindeiner was personally informed in this matter. At any rate, I have not the slightest reason to believe so.

DR. NELTE: No further questions, thank you.

DR. STAHRER: Witness, according to the minutes, you stated that the Criminal Commissioner Absalon had informed you even

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before your departure for Berlin that he had heard in Camp Sagan that shootings were to take place.

WIELEN: I just spoke in connection with this same matter, yes.

DR. STAHLER: Is that what you just...

WIELEN: That is the same matter.

DR. STAHLER: Another question: During the discussion that you had with General Nebe in Berlin, General Nebe said to you that the military offices were informed, and stated more precisely what military offices were concerned?

WIELEN: No, that was not told to me. Nor do I know whether this intention was at all realized, because the military offices were actually not to be informed, and this whole matter was to be regarded as secret and was to be kept secret.

DR. STAHLER: In your testimony here, you mentioned Reich Marshal Göring. Have you any documentary proof that Reich Marshal Göring knew of these shootings, or is that merely conjecture on your part?

WIELEN: No, please consider from what was said and the way it was said, that I wanted to leave that question entirely open. Therefore, I also said that I did not know it positively, and had no evidence for it; but since it concerned a Luftwaffe camp I ask or propose that the Reich Marshal be heard, since he should be able to give information about it.

DR. STAHLER: In other words, it was only a suggestion on your part to interrogate the Reich Marshal as to whether he was informed?

WIELEN: Because I had to leave this matter open, I made the suggestion only in order to proceed further in the matter at all.

DR. STAHLER: That is all.

DR. KAUFFMANN: Witness, you stated that the order had been given by Kaltenbrunner and Müller. Now I ask you, was this order in the form of a teletype or a telegraphic communication, or did you see the order with the original signature?

WIELEN: I believe I can state definitely that it was a teletype communication.

DR. KAUFFMANN: Do you know for sure it was not an original signature?

WIELEN: It was not an original signature. In fact I felt doubts about this later. You can very well imagine that I thought about it hundreds of times, wondering whether it were not entirely possible...

DR. KAUFFMANN: Speak more slowly.

WIELEN: . . . that it was Himmler's signature; but from the organizational point of view it would have had to be Kaltenbrunner who signed it.

DR. KAUFFMANN: So, if I understood you correctly, you can also not state definitely that the teletype really had Kaltenbrunner's signature under it, but rather you simply assume that from your knowledge of the organization.

WIELEN: I was so impressed by the contents of the communication, by the results, and by the necessity to prepare the working out of the whole affair that I paid little attention to the mechanical matters, that is, the externals involved. As a result, they did not imprint themselves on my memory in such a way that I could make a statement about them with definite reliability.

DR. KAUFFMANN: Thank you.

MR. ROBERTS: No further questions.

THE PRESIDENT: The witness can retire.

Dr. Nelte, does that close the case for the Defendant Keitel?

DR. NELTE: As far as witnesses are concerned, that closes the case for Keitel. I have a few further remarks to make with regard to the presentation of evidence.

The Tribunal have approved an affidavit by Krieger by its ruling of 6 April 1946. I ask the Tribunal to permit me to put this affidavit in evidence as Document Keitel-15. I have the German original here and I should like to read only that part of the affidavit that describes the relations between Hitler and Keitel. This involves three short paragraphs:

"The relations between Hitler and former Field Marshal Keitel were officially correct and, on Hitler's part, appeared confiding as a whole, springing from appreciation of or respect for a zealous co-worker. Keitel's attitude was upright and soldierly. There was, however, no further friendly or confidential note between them. Apart from official receptions, and so forth, Keitel, as far as could be ascertained, hardly took part with Hitler in informal conversations nor shared any meals with him. Also, summons to discussions with Hitler outside the official conferences, when there were no stenographers present, were not observed.

"In preparing decisions or in formulating orders, Keitel gave expression to his own opinions, even if they happened to differ, in an unbiased, clear, soldierly manner. He apparently knew exactly, from many years of collaboration with Hitler, the limits of possibility as far as influencing his opinions or decisions or changing his mind was concerned. For that reason

he generally accepted Hitler's decisions as orders in a soldierly manner. In individual cases he tried and succeeded by emphatic reasoning in changing decisions, or at least in delaying them in order to have them further examined.

"That Hitler, at least at times, did not trust Keitel completely I believe I can conclude from one of Hitler's remarks..."

THE PRESIDENT: Dr. Nelte, it appears to the Tribunal that it is not really necessary to read this. Keitel has already said it, it is cumulative to him, and the document itself is in evidence so we can read it ourselves.

DR. NELTE: It is not necessary, but it simply corroborates what has been testified to here. Therefore, I can...

THE PRESIDENT: It is sufficient that you tell us that.

DR. NELTE: I have further received the answers to several interrogatories that were permitted by the Tribunal.

First, there is the answer to the interrogatory by Herr Romilly. I can put this sworn interrogatory in evidence before the Tribunal and can forego any reading of it.

The same is true of the answers to the interrogatory submitted to the witness Rotraud Roemer as to the question of the branding of Russian prisoners of war.

The interrogatories of Professor Naville and Ambassador Scarpini are not yet at hand. I shall submit them as soon as they arrive. There remains...

THE PRESIDENT: Have the Prosecution had these documents?

DR. NELTE: Yes.

THE PRESIDENT: Have you given numbers to these? You gave Document Keitel-15 to the last affidavit. You ought to number the others.

DR. NELTE: Romilly is Document Keitel-16, and Roemer is Document Keitel-17.

I have now only the affidavit of the late Field Marshal Von Blomberg. As ruled by the Tribunal on 26 February, it was allowed that he be interrogated. I have sent the original to the Prosecution and I ask to be allowed to put in evidence the sworn answers of Von Blomberg. It is in Document Book 1 and is known both to the Tribunal and to the Prosecution.

THE PRESIDENT: Yes.

DR. NELTE: That concludes my case.

THE PRESIDENT: Thank you—Now, Dr. Horn, I think—Dr. Nelte, you are lodging these original documents that are numbered



Keitel-16, 17, and 18, you are lodging them with the General Secretary?

DR. NELTE: Yes.

THE PRESIDENT: Have they been translated?

DR. NELTE: Yes.

THE PRESIDENT: Very well.

Dr. Nelte, we have not seen a translation of Keitel-16, but you are sure that it has been translated, are you?

SIR DAVID MAXWELL-FYFE: I have seen an English translation of it.

THE PRESIDENT: You have?

SIR DAVID MAXWELL-FYFE: It was shown to me when it came in. I am quite sure I remember reading it.

THE PRESIDENT: Very well, perhaps the General Secretary's department will see that we are furnished copies of it.

Yes, I think that is the one. That is Keitel-16.

SIR DAVID MAXWELL-FYFE: Certainly, I think Romilly is Keitel-16. I have seen it.

THE PRESIDENT: Very well.

Dr. Horn, do you remember that we read these documents at the time that we approved of their admissibility?

DR. MARTIN HORN (Counsel for Defendant Von Ribbentrop): Yes, Mr. President.

THE PRESIDENT: So perhaps it won't take you long to introduce them in evidence?

DR. HORN: I shall limit myself to a minimum, Mr. President.

THE PRESIDENT: Thank you.

DR. HORN: I should like to ask the Tribunal first to take judicial notice of Document Ribbentrop-75, contained in Volume III, on Page 191, of Ribbentrop's document book. It is a question here of an agreement between the Allied and Associated Powers and Poland of the year 1919. This agreement defines the rights of the German minority in Poland. In Article 12 of this Treaty, which is on Page 3 of this document, it is said that Poland agrees that insofar as the provisions of the above article apply to persons of racial, religious, or linguistic minorities, these provisions form the basis for obligations of international interest and are placed under the supervision of the League of Nations.

In subsequent years Poland repeatedly violated this Treaty. That can be seen from the two following documents, Document Ribbentrop-82, on Page 208 of Document Book Number 4.

10 April 46

This is a legal judgment by the Permanent International Court. It is of 10 September 1923. In order to save time I might just read the conclusion, where it is said:

"The Court is of the opinion that the attitude of the Polish Government defined under Points 'a' and 'b' does not stand in accord with Poland's international obligations."

I ask the Tribunal to take judicial notice of this document, as well as the next document, Document Ribbentrop-84, which is on Pages 212 and 212-a of the Ribbentrop Document Book Number 4. This, too, is a statement on the part of a judicial committee of the League of Nations on minority questions. I ask the Tribunal to take judicial notice of this report.

Immediately after the Government had been taken over by Hitler, this Government attempted to establish a good relationship with Poland. As evidence for this, I refer to Document Ribbentrop-85, which is on Page 213 of the document book. I am reading from Page 2 of that document.

THE PRESIDENT: One moment. Is that Ribbentrop Document Book 4?

DR. HORN: It is Ribbentrop Document Book 4, Mr. President, Page 213. I am reading from Page 214, center of the last paragraph, as follows:

"He, the Chancellor, wished only that the pending political questions existing between Germany and Poland could be examined and treated without passion by the statesmen of both countries. He was convinced that some way out of the present untenable position could be found. Germany desired peace. The forceful expropriation of Polish territory was not his intention, but he was reserving for himself those rights to which he was entitled according to the pact, and he would insist upon them at any time and whenever he thought fit."

Concerning this conference, two official communiqués were issued by request of the Polish Ambassador. This is Document Ribbentrop-86, which is the German communiqué, and I request the Tribunal to take judicial notice of it and also the next document, Document Ribbentrop-87, on Page 216 of the document book, which is the Polish communiqué. So as to save time, I do not propose to read these communiqués.

On 15 July 1937 considerable parts of the German-Polish pact which was signed in Geneva in 1922, regarding Upper Silesia, expired. The necessity arose, therefore, to create a new pact between the two countries, particularly since difficulties again arose due to the question of minorities and the treatment of German minorities. As evidence for this I refer to Document Ribbentrop-117,

on Page 257 of the document book, and I should like to read the second paragraph where it says:

"The Reich Minister also pointed out to the Polish Ambassador that the rigorous Polish point of view regarding the expulsion of those who had indicated a preference for Germany could not be accepted by us."

THE PRESIDENT: I could not see that on Page 254.

DR. HORN: Page 257, Mr. President.

THE PRESIDENT: Yes, I see it.

DR. HORN: The result of those conferences between Poland and Germany is the pact which has been submitted as Document Ribbentrop-123, on Page 263 of the document book. This is a co-ordinated declaration by the Polish and German Governments regarding the protection of their respective minorities, which was published on 5 November 1937. So as to save time, I can point out that the German minorities were given those rights which are usual between civilized states in similar cases. May I also point out that this agreement does not contain anything which can be considered the sanctioning of any wrong previously committed in this field, a point of view which was recently presented by the Prosecution.

So as to remove the difficulties between the Free City of Danzig and the Polish Government which had arisen with regard to minorities and economic matters, an agreement was reached on 5 August 1933, which is Document Ribbentrop-127 and found on Page 270 of the document book. May I request the Tribunal to take judicial notice of this document, too?

Since, in spite of these treaty agreements on the question of minorities and the problem of the Free City of Danzig, difficulties between the two nations continued to arise, Hitler gave the order to the Defendant Ribbentrop, after the solution of the Sudeten-German question in October 1938, to commence negotiations regarding the Danzig and Corridor questions as well as the question of minorities. For this reason the then Polish Foreign Minister, Colonel Beck, was invited to come to Berchtesgaden. The discussions which took place on that occasion between Hitler and the Polish Foreign Minister are contained in Document Ribbentrop-149, on Page 301 of Ribbentrop Document Book Number 5. May I quote from Page 2 of the document to explain what the main features of this conference were? On Page 6, it says:

"For Germany there was not only the Memel question, which would be settled in a manner consonant with German views—for it looked as if the Lithuanians would be willing to cooperate in finding a reasonable solution—but within the direct German-Polish relationship there was also the problem

of Danzig and the Corridor to be solved, which, from the point of view of sentiment, was very serious for Germany."

On Page 3 of the same document, last line of the next to the last paragraph, it says Foreign Minister Beck promised that "he would, however, be glad to give calm consideration to the problem."

With that Germany considered that negotiations regarding this problem had begun.

On 24 January, that is to say the following day, the then Reich Foreign Minister Von Ribbentrop had another discussion with the Polish Foreign Minister Beck during which the question of minorities was once more touched on. That discussion is contained in Document Ribbentrop-150, on Page 304. I ask the Tribunal to take judicial notice of this document.

By invitation of the then Foreign Minister Beck, Reich Foreign Minister Von Ribbentrop went to Warsaw on 24 January 1939. Once more the entire problem was discussed there.

On 21 March, after the Czech question had been settled, a reorganization in the East became necessary. The then Reich Foreign Minister Von Ribbentrop, therefore, asked the Polish Ambassador on 21 March 1939 to come to visit him. The account of that conference is contained in Document Ribbentrop-154, on Page 310 of the document book. May I quote the third paragraph, Page 2, which is the leading point regarding that conference:

"Generally, the decision on the Corridor was considered the heaviest burden put on Germany by the Versailles Treaty."

A few lines later the Reich Foreign Minister Von Ribbentrop explained:

"A prerequisite for this was, however, that the purely German city of Danzig should return to the Reich, and that an extra-territorial motor road and railway connection be established between the Reich and East Prussia.

"He promised that Germany would in exchange guarantee the Corridor.

"Ambassador Lipski promised to inform M. Beck accordingly and then to give an answer."

May I ask the Tribunal to take judicial notice of this document as well?

Although the German Government at that time expected that on the strength of these discussions the question of the minorities and the question of Danzig and the Corridor would find some solution, these discussions had the opposite effect.

It appears from Document Ribbentrop-155, on Page 313, and Document Ribbentrop-156, on Page 314 of the document book, that

Poland at that time ordered partial mobilization. That partial mobilization could have been directed only against Germany.

Moreover, the settling of the Czechoslovakian question on 15 March 1939 had led to a change of attitude on the part of Britain. The then Prime Minister, Chamberlain, under pressure from the opposition, had opened consultations with various European states. As evidence of this fact, I refer to Document Ribbentrop 159, which is Page 317 of the document book. This is a conversation of the Reich Minister for Foreign Affairs, Von Ribbentrop, with the Polish Ambassador, Lipski, in Berlin on 26 March 1939. May I quote the beginning, which is as follows:

“On 21 March the British Government proposed first in Warsaw, as well as in Paris and Moscow, that a ‘formal declaration’ by the British, French, Russian, and Polish Governments shall be made.”

I shall then skip a few lines and quote further as follows—Line 7 from bottom:

“The Polish Government, which ordered partial mobilization on 23 March, was in no way satisfied with this British proposal for negotiations but rather demanded far more concrete commitments from England on behalf of Poland. Therefore, also on 23 March, Foreign Minister Beck instructed the Polish Ambassador in London, Count Edward Raczynski, to submit to the British Government the following proposal for an Anglo-Polish union:

“‘Referring to the English proposal’”—it says further on—“‘of 21 March, I request you to ask Lord Halifax if: (1) In view of the difficulties and the unavoidable complications and ensuing loss of time . . .’”

MR. DODD: If Your Honor pleases, I see no reason—if I may say so with greatest respect—for reading any part of any of these documents. They are all in evidence, or will be, I assume. All that needs be done, it seems to us, is to give them numbers. I know that we read and commented at the time we put in the Prosecution’s case, but the compelling reasons for that system are not present now and cannot apply as far as these defendants are concerned.

THE PRESIDENT: Mr. Dodd, the Tribunal would like to know what the compelling reasons were that you were referring to.

MR. DODD: Yes, I shall be glad to. At that time it was physically impossible for the Prosecution to have its material all translated in the four languages, or the three languages in addition to the one in which the original was written. Now the defendants do have those facilities. Had we been able to have our papers all translated, we would have submitted them and we would not have commented;

but the necessity for comment seemed very real to us, because we had to read everything that we wanted into the record over the speaking system, and if we read a lot of disjointed excerpts from documents we could not have presented any reason of evidence before this Tribunal. But I say that now the Defense can do so, it can submit the whole document, and later on, as I understand the rules and the Charter, Counsel will have an opportunity to argue and comment about it as evidence.

THE PRESIDENT: But you will remember that this matter was argued—I think it was a week or so ago. And if I remember rightly, Dr. Dix argued in favor of the defendants' counsel being still entitled to read such passages as they wanted, and with short connecting remarks; and we adhered to that rule.

MR. DODD: I did not understand that Your Honors had already ruled. I remember Dr. Dix's statement. One of his principal reasons was that he wanted an opportunity to make this information available to the press or the public. If that is still his reason, they are all available; the press can have them without having them read over this microphone. However, I won't press the matter if the Court has already ruled.

THE PRESIDENT: I think so.

GENERAL R. A. RUDENKO (Chief Prosecutor for the U.S.S.R.): I would like to say a few words on the subject of Mr. Dodd's proposal. I fully support...

THE PRESIDENT: General Rudenko, I just pointed out to Mr. Dodd that we have made a specific ruling upon this subject, and, in the opinion of the Tribunal, Dr. Horn has been performing his task with great discretion.

GEN. RUDENKO: I still would like to be permitted to make a few remarks in regard to Mr. Dodd's proposal.

As the Tribunal will remember, just before the start of the questioning of the Defendant Keitel the Defense gave full documentation for Keitel, and the Tribunal looked into the matter of what documentation was to be accepted as evidence and what was to be declined...

THE PRESIDENT: General Rudenko, if you are repeating, you are repeating the very words I used to Dr. Horn when he began, and, as I say, in the opinion of the Tribunal Dr. Horn has met the views of the Tribunal and has made his reading of these documents reasonably short.

GEN. RUDENKO: I understand, Mr. President. I merely wanted to remark that the Soviet Prosecution consider that Dr. Horn's comments are superfluous as the defendant has already given us too many comments on the subject.

THE PRESIDENT: Dr. Horn, I am sure you will continue to use every possible means of cutting it short as much as you can.

DR. HORN: I hope, Mr. President, that I have convinced the Tribunal that I will be as brief as possible and that I shall read as little as possible, only that which is necessary to make understandable why I am presenting the documents.

THE PRESIDENT: Shall we adjourn now?

*[A recess was taken.]*

DR. HORN: I had last quoted some passages from Document Ribbentrop-159, Page 317 of the document book, and I wish to briefly summarize what these documents refer to.

This document contains the request from England to the Polish Government to formulate the consultation into a concrete agreement. This agreement was then in fact made, between 21 March and 26 March, between England and Poland.

Furthermore, and as a parallel to this, there is the coalition policy on the part of England which is proved by Documents Ribbentrop-182 to 186, on Pages 370 and following of Ribbentrop Document Book Number 5. As is shown in Document 182, the following states were concerned. I am quoting from Document 182, at the bottom of Page 6:

"The following countries are said to have been invited to participate in the question of guarantees: Russia, Poland, Turkey, and Yugoslavia. It is said to be definitely established"—it says further—"that Hungary was not approached. It was left up to Poland to approach Lithuania, Estonia, and Latvia. The same is supposed to apply to Turkey with regard to Greece."

As evidence of this policy of coalition, I refer to Document Ribbentrop-185, Page 372 of the document book. This is a telegram from the German Chargé d'Affaires in London to the Foreign Office, and I should like briefly to quote a few passages from that. They read:

"The available news proves clearly that the plan for a declaration pre-announced by telegram on the part of Britain can actually be divided into two parts. The first part deals with guarantees to Belgium, Holland, and Switzerland; the second part aims to protect the Eastern countries against aggression. The British Cabinet is said to have been informed by a military spokesman that Rumania, because of her oil wells, will definitely have to be protected against German military seizure."

The same subject is dealt with in Document Ribbentrop-186. I ask the Tribunal to take judicial notice of it without my reading from it. And I also ask that Document Ribbentrop-183, which is on Page 375 of the document book, be taken judicial notice of; once more, so as to save time, I do not propose to read it.

Based on this policy of coalition on Britain's part which was directed against Germany, the Treaty of Friendship and Alliance between Germany and Italy was concluded on 22 May 1939. I am submitting it as Document Ribbentrop-187, on Page 376 of the Ribbentrop document book. I request the Tribunal to take judicial notice of it without my reading it.

The result of the guarantee given by England to Poland was that Ambassador Lipski, on 26 March 1939, on the occasion of a conference with the Reich Foreign Minister Von Ribbentrop, declared—and I am here referring to Document Ribbentrop-162, and quoting from the third paragraph:

“Mr. Lipski replied that it was his unpleasant duty to point out that any further pursuance of these German plans, particularly regarding a return of Danzig to the Reich, would mean a war with Poland.”

I ask the Tribunal to take judicial notice of this document. The same applies to the previous document, Document Ribbentrop-160, on Page 320 of the document book, which refers to the consultations between Britain and the governments previously mentioned.

On the strength of the declaration of Lipski which I have just read—namely, that further pursuance of an attempt to alter the *status quo* regarding the Corridor and Danzig would mean war—the Reich Foreign Minister declared to the Polish Ambassador on 27 March 1939—I again quote from Document Ribbentrop-163, on Page 335 of the document book—that this attitude of Poland could not be the basis for a settlement of these questions so far as Germany was concerned. The corresponding passage is the next to the last paragraph on Page 2 of this document, where it says:

“In conclusion, the Foreign Minister remarked that he no longer knew what to make of the attitude of the Polish Government. They had given a negative answer to the generous proposals which Germany had made to Poland. The Foreign Minister could not regard the proposal, submitted yesterday by the Polish Ambassador, as a basis for the settlement of the problems. The relations between the two countries were, therefore, more and more strained.”

I ask the Tribunal to take judicial notice of this document.

So as to prove that the Anglo-Polish Pact for Mutual Assistance was clearly aimed against Germany, I submit to the Tribunal as



evidence Document Ribbentrop-164, which is on Page 338 of the document book. I quote the last two lines, where it says:

"...that the pact applied only in the case of an attack by Germany. The Polish Government affirms that this is so."

I ask the Tribunal to take judicial notice of the document.

The result of the Anglo-Polish agreement of 6 April 1939, which has been submitted by the Prosecution as Document Number TC-72, and which appears on Page 337 of my document book, was the termination of the Polish-German agreement of 26 January 1934, since Germany was convinced that the Anglo-Polish guarantee declaration was contrary to the spirit of this agreement.

Subsequently there were a number of excesses against the German minorities in Poland. The documents referring to this are contained in my document book under Documents Ribbentrop-165 to 181. I am asking the Tribunal to take judicial notice of these numbers, and to save time I shall limit myself to very short quotations.

I refer to Document Ribbentrop-166, which states that serious incidents occurred in Pommerellen, Njevo, and Bromberg.

I also refer to Document Ribbentrop-167, on Page 353 of the document book. This document shows that in the last days there was a public declaration in Warsaw which openly appealed for a boycott of German trade and handicraft.

Furthermore, as evidence for my statement, may I refer to Document Ribbentrop-180, which is on Page 368 of the Ribbentrop document book. May I read this brief report, which I quote as follows:

"During the last few months the German Foreign Office has continuously received reports from the German Consulate in Poland about the cruel treatment to which racial Germans are subjected by the Poles, who have been more and more stirred up and have abandoned themselves to unbridled fanaticism. In Appendix 38 especially grave cases have been collected."

From Document Ribbentrop-181, on Page 369 of the document book, it appears that these clashes, as a matter of fact, took place with the knowledge and under the protection of Polish statesmen and high officials. As evidence for this, I refer to Document Ribbentrop-181, but for reasons of time I am not going to read from it, but ask the Tribunal to take judicial notice of it.

At the beginning of August 1939 an acute crisis developed in German-Polish relations. As evidence of this I present Document Ribbentrop-188, on Page 381 of my document book. The cause was actually a small one. There was dispute regarding the functions of the customs officials on the Danzig frontier. Because of this dispute,

the diplomatic representative of the Polish Republic in Danzig made a protest to the President of the Senate of the Free City of Danzig. This protest is contained in Document Ribbentrop-188. It contained an ultimatum, which becomes clear from Paragraph 3 of the document.

On 7 August the then President of the Free City of Danzig replied to this as appears in Document Ribbentrop-189. I ask the Tribunal to take judicial notice of this document also.

In Document Ribbentrop-190, on Page 383, the Reich Government warns Poland not to deliver any ultimatum. I ask the Tribunal to take judicial notice of this document, and I do not propose to read from it.

The next document I am presenting is Document Ribbentrop-192, which is on Page 385 of the document book. This is a document from the Under State Secretary at the Polish Foreign Ministry to the German Chargé d'Affaires in Warsaw, and it is dated 10 August 1939. It appears from the last two lines of the document that Poland would consider any intervention of the Reich Government to the detriment of Danzig's rights an aggressive act.

These notes created an even more critical situation in German-Polish relations. The Reich Government and their departments attempted, in the time that followed, to avoid a threatening conflict. As evidence of this I submit Document Ribbentrop-193, which is on Page 404 of the document book; and I ask the Tribunal to take judicial notice of it.

This is a memorandum of the State Secretary of the Foreign Office regarding—it is in Ribbentrop Document Book 6, Page 404—this is a memorandum regarding a visit of the French Ambassador to the State Secretary of the Foreign Office, Weizsäcker. During that conversation the then State Secretary, Weizsäcker, emphasized that Germany had no more urgent wish than German-Polish agreement regarding Danzig. The French Ambassador assured him that his Government would co-operate in these attempts.

I ask the Tribunal to take judicial notice of this document, Document Ribbentrop-193, and the next document, Number 194, on Page 406 of the document book.

The last document concerns the discussion between the State Secretary and the British Ambassador, Sir Nevile Henderson, during which the German State Secretary pointed out the seriousness of the situation.

I read from Page 1 of the document, the third paragraph, fifth line, the following sentence which characterizes the situation:

“Danzig was only protecting itself against its protector.”

Apart from that, the State Secretary pointed out that the situation regarding Danzig had now reached extreme tension.

The next document I refer to is Document Ribbentrop-195, on Pages 408 to 415 of the document book. This document refers to a conference between Hitler and Ambassador Henderson on 23 August 1939. This conference is contained in Document Ribbentrop-199, on Page 422 of the Ribbentrop document book. I also ask the Tribunal to take judicial notice of this document, and, so as to clarify the content of that conference briefly, I am going to refer to Page 4 of the document, where it says:

"He once more drew attention to the Danzig and Polish question in connection with which England's attitude was, 'Better war than something to Germany's advantage.'"

The second paragraph after that reads:

"The Führer stated that the fact that England opposed Germany in the Danzig question had deeply shaken the German people.

"Henderson then stated that one was merely opposing the principle of force, whereupon the Führer wanted to know whether England had ever found a solution by negotiation for any of the idiocies of Versailles.

"The Ambassador had no reply to this, and the Führer then stated that, according to a German saying, it took two to make a friendship."

Because of the tense relations the late Prime Minister Chamberlain, on 22 August 1939, wrote a letter directly to Hitler. This letter is Document Ribbentrop-200, on Page 426 of the document book. I ask the Tribunal to take judicial notice of this document also.

The next document is Document Ribbentrop-201, and it contains Hitler's reply to the British Prime Minister Chamberlain.

On 25 August 1939 there was yet another meeting between Hitler and Ambassador Sir Nevile Henderson. That meeting is contained in Document Ribbentrop-202, which is on Page 431 of the Ribbentrop document book. May I refer to Paragraph 5, where Hitler emphasized once more that, "The problem of Danzig and the Corridor would have to be solved." On the following page, in Paragraph 3 on Page 2, Hitler says:

"But after the solution of this problem he is prepared and determined to approach England with a major, all-inclusive proposal."

This offer is contained in detail in the same Document Number 202.

Henderson made an entry regarding this discussion in his diary, which is Exhibit Ribbentrop-195, and on Page 415 he refers to this last-mentioned meeting of 25 August 1939:

"My interview with Hitler"—says Henderson—"at which Herr Von Ribbentrop and Dr. Schmidt were also present, lasted over an hour on this occasion. The Chancellor spoke with calm and apparent sincerity. He described his proposals as a last effort for conscience's sake to secure good relations with Great Britain and suggested that I should fly to London myself with them."

Under Number 8, on the same page, 415, Henderson continues to say:

"Whatever may have been the underlying motive of this final gesture on the part of the Chancellor, it was one which could not be ignored..."

The next document, which gives in detail the course of events and the crisis which led up to the outbreak of war, is Document Ribbentrop-208, on Page 451 of the document book. To the extent that I do not read from it, I ask the Tribunal to take judicial notice of the entire document.

The first extract from this document, which is a telegram from Lord Halifax to Sir Kennard in Warsaw, states the following, and I quote:

"Our proposed reply to Herr Hitler draws a clear distinction between the method of reaching agreement on German-Polish differences and the nature of the solution to be arrived at. As to the method, we wish to express our clear view that direct discussion on equal terms between the parties is the proper means."

This request for direct negotiations is an essential part of the events which followed.

Under Number 5 of the same document, on Page 452 of the document book, it states as follows:

"As the Polish Government appear in their reply to President Roosevelt to accept the idea of direct negotiations, His Majesty's Government earnestly hope that, in the light of the considerations set forth in the foregoing paragraph, the Polish Government will authorize them to inform the German Government that Poland is ready to enter at once into direct discussions with Germany."

In the following document, which has the same number and is on the same page, is a telegram from Sir Nevile Henderson to Lord Halifax, which was dispatched on 29 August 1939. Great Britain's role as mediator is once more clarified. It says under Number 3 of this document:

"Note observes that German proposals have never had for their object any diminution of Polish vital interests, and

declares that the German Government accepts mediation of Great Britain with a view to visit to Berlin of some Polish plenipotentiary. German Government, note adds, counts on arrival of such plenipotentiary tomorrow, Wednesday, 30th August.

"I remarked that this phrase sounded like an ultimatum, but, after some heated remarks, both Herr Hitler and Herr Von Ribbentrop assured me that it was only intended to stress urgency of the moment when the two fully mobilized armies were standing face to face."

These proposals, which I have previously submitted in a special exhibit, had the following reaction in Great Britain—I read from Page 453 of Ribbentrop's document book. It is a telegram from Lord Halifax to Sir Nevile Henderson of 30 August 1939. It says:

"We shall give careful consideration to German Government's reply, but it is, of course, unreasonable to expect that we can produce a Polish representative in Berlin today, and German Government must not expect this."

In the meantime the situation had become so serious that Sir Nevile Henderson did not consider that a success of Britain's action would be possible. This is shown in the same document on Page 454. This is a telegram from Sir Nevile Henderson to Lord Halifax. I am reading only a short quotation, to save time, from Point 3 of the telegram:

"While I still recommend that the Polish Government should swallow this eleventh-hour effort to establish direct contact with Herr Hitler, even if it be only to convince the world that they were prepared to make their own sacrifices for preservation of peace..."

The Polish Government was, nevertheless, not willing to enter into direct negotiations. This can be seen from the same document on Page 455, from which I will read only the first three lines. It is a telegram from the British Ambassador in Warsaw to Lord Halifax, and it states:

"I feel sure that it would be impossible to induce the Polish Government to send M. Beck or any other representative immediately to Berlin..."

In the same telegram the British Ambassador emphasizes, under Number 4, and I quote:

"I am, of course, expressing no views to the Polish Government, nor am I communicating to them Herr Hitler's reply until I receive instructions, which I trust will be without delay."

Through the failure to pass on the German Government's proposals to the Polish Government, direct negotiations were frustrated. As evidence of the fact that the Polish Government, too, had no intention of entering into such direct negotiations, I refer to Page 465 of the same document, which is a telegram from Lord Halifax to Sir Kennard in Warsaw. Once more he is asking the Ambassador to invite the Polish Government to enter into direct negotiations. I will not quote from this document, but I will quote from the next document, Page 466, which is an extract from the British *Blue Book*, and which refers to the Polish reaction. It is a telegram from Sir Kennard to Lord Halifax, 31 August 1939.

I am going to read the first three paragraphs of this document. From these paragraphs it becomes clear what the Polish attitude was regarding the possibility of direct negotiations. I quote:

"M. Beck has just handed me in writing the Polish reply to my *démarche* last night."

The second paragraph states:

"I asked M. Beck what steps he proposed to take in order to establish contact with the German Government. He replied that he would instruct M. Lipski to seek an interview with the Minister for Foreign Affairs or State Secretary in order to say Poland had accepted British proposals. I urged him to do this without delay.

"I then asked him what attitude the Polish Ambassador would adopt if Herr Von Ribbentrop, or whomever he saw, handed him the German proposals. He said that M. Lipski would not be authorized to accept such a document as, in view of past experience, it might be accompanied by some sort of ultimatum."

This extract from the British *Blue Book* proves that, as far as Poland was concerned, all possibilities of clarifying the question of Danzig or the minorities were refused. In this manner it was no longer possible for the German Government or the British Government to discuss this question with Poland any further. As evidence for further efforts, I submit to the Tribunal Document Ribbentrop-209, on Page 494, of which I ask the Tribunal to take judicial notice. I will not quote from it, or from Document Ribbentrop-210, which I also offer to the Tribunal for judicial notice.

The next document is Document Ribbentrop-213, which is on Page 504-b of my document book. This last document is an official German report regarding the subject and basis of negotiations during the time of the Polish-German crisis.

Since Poland was unable to discuss these questions of Danzig or the Corridor with Germany, a war arose between these two countries. In my final defense speech, I shall discuss specifically the

legal aspect of this war and its nature in respect to international law. What I want to state today is that the lack of any effective international institution for the alteration of the insufferable *status quo* was the final reason which led to the outbreak of war in 1939.

The next group of documents which I am submitting to the Tribunal are those which refer to the occupation of Denmark and Norway by Germany. These are the Documents Ribbentrop-216(a)—on Page 509 of the document book—216(b), and 217. I ask the Tribunal to take judicial notice of these documents, and, as far as evidence and the actual events are concerned, I refer to the documents and statements which my colleague, Dr. Siemers, will submit to the Tribunal when he speaks on behalf of Raeder.

The next group of documents are those which refer to the occupation of Holland and Belgium. They are Documents Number 218 and the following, on Page 518 of the document book. The documents are contained in Document Book Number 7. So as to explain the German viewpoint, I quote from Document Ribbentrop-218 Page 518 in Document Book Number 7. I am going to quote the following brief passages, Paragraph 2:

“As the Reich Government has long been aware, the true aim of England and France is the carefully prepared and now immediately imminent attack on Germany in the West, so as to advance through Belgium and Holland to the region of the Ruhr. Germany has recognized and respected the inviolability of Belgium and Holland, it being a natural prerequisite that these two countries, in the event of a war between Germany and England and France, maintain the strictest neutrality. “Belgium and the Netherlands have not fulfilled this condition.”

On Page 2 in the same document, under Number 8, reference is made to the evidence which was known to the German Government at the time and which I will submit in due course in support of the assertion just made. It says:

“Documents at the disposal of the German Government prove that preparations by Britain and France on Belgian and Netherlands territory are already far advanced.

“Thus, for some time, all obstacles on the Belgian border toward France which might hinder the entry of the English and French invasion army have been secretly removed. Air fields in Belgium and the Netherlands have been reconnoitered by English and French officers, and their enlargement has been ordered. Belgium has made transport facilities available at the frontier, and recently advance parties of staff personnel and units of the French and English Army have arrived in

various parts of Belgium and the Netherlands. These facts, together with further information which has accumulated in the last few days, furnish conclusive proof that the English and French attack against Germany is imminent and that this thrust will be directed against the Ruhr through Belgium and the Netherlands."

As proof of these statements I refer to Documents Ribbentrop-221 through 229, which I submit to the Tribunal for judicial notice. They are the Anglo-French plans in preparation for violation of Holland's and Belgium's neutrality in agreement with these countries.

THE PRESIDENT: Dr. Horn, the Tribunal has to adjourn at 5 o'clock into a closed session. They hope very much that you will conclude your examination of these documents by then.

DR. HORN: Very well, Mr. President. So as to save time, I shall only state briefly what these documents are. Document Ribbentrop-221 is the proof of an intended intervention in Belgium. This is a report from the military attaché at the French Embassy in London, General Lelong, addressed to the Chief of the French General Staff for National Defense. I am going to quote a very brief passage from it which says:

"Intervention in Belgium.

"The British Delegation readily recognized how uncertain the conditions are for eventual intervention in Belgium. It was proposed that we, in order to prevent a battle of junction on the Belgian flatlands, must plan to organize our defenses at least along the Schelde, or preferably, along the Albert Canal. By request of the British Delegation, the following points have been considered:

"(1) The possibility of intervention along the line Antwerp-Brussels-Namur, assuming that it were possible to organize such a position in good time.

"(2) The importance of holding the Belgian and Dutch territory as a base for a resumption of the offensive against Germany."

Again, to save time, I shall not refer to any other documents in connection with this group. I merely ask the Tribunal that Document Ribbentrop-219, on Page 521 of the document book, which is a memorandum of the German Government to the Luxembourg Government, of 9 May 1940, and Document Ribbentrop-220, should be taken judicial notice of, so that I can refer to them when I present my case. Furthermore, I ask the Tribunal to take judicial notice of the Documents Number 230, 230(a), 231, 231(a), 232, 233, 234, 235, 236, 237, 239, 240, 241, 242, 243, 244, and 245, which, again are documents which originate from the French General Staff and are clear proof that on the part of Britain and France, before 9 May 1940,



detailed plans for military co-operation had been prepared, and that British and American advance parties were already on Belgian and Dutch territory before German troops crossed the border. That is the end of this particular group.

I now come to those documents which I intend to submit to the Tribunal with reference to the occupation of Yugoslavia and Greece. These are Documents Ribbentrop-272 and the following, Pages 604 and the following, of the document book. Here again, we are concerned with documents which partly come from the files of the French General Staff. The first document of the type is Document Ribbentrop-272, which is a note from the German Government to the Yugoslav Government, dated March 1941. This is concerned with the joining of the Three Power Pact by Yugoslavia. This document shows that Germany and the Axis Powers did not intend to put demands to Yugoslavia during the war at all, least of all with reference to the march of troops through Yugoslav territory. Documents Ribbentrop-273 and 274 contain the minutes of Yugoslavia's entry into the Three Power Pact on 25 March 1941, and connected with it is a note from the Reich Government to the Yugoslav Government. With Document Ribbentrop-277 I submit to the Tribunal a note from the Reich Government to the Greek Government, which was handed to that Government after Greek territory had been occupied by British troops. From Page 3 I quote the following sentence:

“During recent days, Greece had become an operational territory for British forces.”

Under Document Ribbentrop-278, I submit to the Tribunal an official statement from the Reich Government, dated 6 April 1941, which is addressed to both Yugoslavia and Greece. In this note the reasons are stated which, after the Simovic revolt, led to military action by Germany in Yugoslavia. These reasons can be found on Page 4 of this document. As evidence that the statements contained therein are true, I am referring to the so-called “Charité Files” which are the files of the French General Staff.

This completes the group of documents with reference to Yugoslavia and Greece, but I should like to add that once again I will rely on further evidence which will be submitted by my colleague, Dr. Siemers, for the Defendant Raeder, and which also refers to the German action against Greece.

The next group of documents refer to Russia. They are the ones in Documents Ribbentrop-279 and the following, which can be found on Pages 619 and the following of the document book. I ask the Tribunal to take judicial notice of Numbers 279, 280, 282, 283, and 284. During the presentation of my argument I shall refer to these documents further.

The next and last group of documents are those which refer to the accusation against the Defendant Ribbentrop regarding the Anti-Comintern Pact and his policy in connection with Japan and the U.S.A.

The first document of this type is Document Ribbentrop-291, on Page 652 of the document book. This document contains the text of the Anti-Comintern Pact. Document Ribbentrop-281 refers to the extension of the Anti-Comintern Pact, the Three Power Pact of 27 September 1940. I submit these documents to the Tribunal as proof of the fact that Ribbentrop and the Reich Government made efforts, by means of this policy, to keep the United States out of the war. In spite of this policy, an active support of our opponents by the United States took place. As proof of this, I refer to the documents in Document Ribbentrop-306 and Document Ribbentrop-308, on Pages 700 and 702 and following of the document book. These documents are the last I am submitting to the Tribunal with reference to the policy of Germany during the years when the Defendant Von Ribbentrop was Foreign Minister. Finally I refer briefly to Document Ribbentrop-313. That is an affidavit from the Legation Counsellor, Bernd Gottfriedsen. This affidavit actually has nothing to do with the aggressive war, but it refers to questions which have been brought up by the Prosecution in connection with the case of Ribbentrop, and this affidavit contains statements regarding the real estate property of the Defendant Ribbentrop and regarding his ownership of art works.

May I point out that Legation Counsellor Gottfriedsen, as he has stated in the affidavit, handled the financial affairs of the Foreign Office and particularly those of the Foreign Minister. I will quote a brief passage in connection therewith from question Number 5:

“Question: ‘What is the situation with regard to Von Ribbentrop’s art possessions?’

“Answer:”—by Legation Counsellor Gottfriedsen—“Herr Von Ribbentrop was a wealthy man before he entered diplomatic life. During the time of his activities in the above-mentioned department he acquired some paintings, for the most part on the art market in Germany itself. Every one of these paintings was acquired properly and, above all, at correct prices, and of course paid for out of the private funds of the Reich Foreign Minister.

“During the time he was Foreign Minister, Herr Von Ribbentrop acquired art objects abroad for purposes of furnishing the Foreign Office and German missions in foreign countries, which became state property and were used accordingly. All these art objects were catalogued and carried in the books as inventory. No foreign art objects were acquired illegally,

that is by pressure, *et cetera*. Herr Von Ribbentrop's private art objects, too, were catalogued, and the objects themselves marked distinctly by me.'"

I now skip one paragraph and read the end of the statement which says:

"During the war he did not acquire any art objects illegally from any of the territories occupied by German troops, be it for his own private use or for the Foreign Office of the Reich.'"

I should like to add that Legation Counsellor Gottfriedsen knew thoroughly the private property affairs of the Defendant Von Ribbentrop, and had annually made a survey of them together with a certified accountant for the purpose of taxes and inventory.

Finally, I should like to quote a paragraph from the affidavit which is Document Ribbentrop-317, and which is in the document book on Page 749. This is an affidavit from Frau Von Ribbentrop given before a notary in Nuremberg. It refers to accusations raised by the Prosecution in connection with the Russian policy pursued by Ribbentrop. I am quoting, as follows:

"In 1940 we had a very inadequate air-raid shelter in the Foreign Office (official residence). During air-raids, therefore, on the order of Adolf Hitler, we used the air-raid shelter of the Reich Chancellery, since he considered it important that my husband, in his capacity as Reich Foreign Minister, and the documents of the Foreign Office should be safe from air raids. I was at that time expecting my youngest child, which was born on 19 December 1940, and can therefore clearly remember an air-raid which took place shortly before this event, which caused us to go to the air-raid shelter of the Reich Chancellery. On this occasion Adolf Hitler was also present and came into our room in the shelter. He, my husband, and I sat at a table in this room. In the course of our stay my husband spoke at length of his efforts to induce Russia to join the Tripartite Pact. He developed the possibilities of such diplomatic action and his ideas of how he imagined the conclusion of such a pact. I remember clearly that Adolf Hitler closed the conversation with the words, 'Ribbentrop, why shouldn't we be able to manage that, when we have managed so many things?'

"My husband presented his ideas with great *élan* and with great impressiveness. After he had finished I noticed that Adolf Hitler, who had received my husband's statements without pertinent remarks, seemed to be a little absent-minded, so that I had the impression that my husband's statements had not made any convincing impression."

I have offered this affidavit so as to prove that at that time Ribbentrop was still eager to avoid a conflict with Russia.

This ends the presentation of the documents on behalf of the Defendant Von Ribbentrop.

THE PRESIDENT: Sir David, could you inform us how far you have been able to get with Dr. Thoma in connection with his documents, that is, the Rosenberg documents?

SIR DAVID MAXWELL-FYFE: My Lord, the American delegation, the Soviet, and the French are dealing with Rosenberg.

THE PRESIDENT: Perhaps Mr. Dodd can tell us.

MR. DODD: Captain Krieger of our staff, Your Honor, has been in consultation with Dr. Thoma and will continue to be, in an effort to follow the procedures laid out by the Court.

THE PRESIDENT: Yes.

MR. DODD: While on that subject, if I may, I would like to inform the Court that we have concluded our conversations with Dr. Dix, and we are, I think it fair to say, at some differences. I think it would be necessary to have a hearing by the Court on these matters that we do not agree on. However, we have agreed to a considerable number of Schacht items.

THE PRESIDENT: Yes, but what I want to insure is that there shall be no delay at the end of Kaltenbrunner's case with reference to Rosenberg's case. And as I understand it, the documents in the Rosenberg case, which it has been suggested we might have to consider, are very numerous; and the sooner the Tribunal gets to them the better.

MR. DODD: We shall be available at all times to talk with Dr. Thoma and move right along—in the evening if he cares to do it.

THE PRESIDENT: It might possibly be desirable, it seems to me, to have the documents which have been translated presented to the Tribunal before the others; I mean to say not have them all together, because there are, no doubt, various volumes.

MR. DODD: There are three so far; I understand there will be more. But we will press it and continue to talk with Dr. Thoma, and just as soon as possible on the first book we will be prepared to come before the Court for a hearing.

THE PRESIDENT: Well, Dr. Thoma, wouldn't the best thing be for you to submit the volumes which have been translated to the Court so that they can consider them beforehand as we did with Dr. Horn's books?

DR. THOMA: Yes, My Lord, that is possible. The documents have already been processed. With reference to my Document Books Number 2 and 3, I have discussed them with Captain Krieger, in Room 216, and we came to an agreement.

THE PRESIDENT: Yes, well you could specify that agreement in the books. I suppose you could show which documents you were prepared to withdraw.

DR. THOMA: Yes.

THE PRESIDENT: Well, then, as soon as possible you will let the General Secretary have those books, showing the agreement which you have made with Captain Krieger; is that right?

DR. THOMA: But I do want to point out that I have come to an agreement with Captain Krieger, in Room 216, only with reference to Books 2 and 3 and that refers only to the Einsatzstab and the Reich Minister for the Occupied Eastern Territories.

I have not yet come to an agreement regarding the philosophy and writings of Rosenberg, but I shall do that in due course.

THE PRESIDENT: No; one—is that in Book 1?

DR. THOMA: Yes.

THE PRESIDENT: Well, if you are unable to come to an agreement, you can specify that, and we will consider those matters. Possibly you could take some time with Captain Krieger—take time off from Court—in order to come to an agreement with reference to Book 1 and with reference to the other books.

How many more books have you got?

DR. THOMA: All together four document books.

THE PRESIDENT: Four more?

DR. THOMA: All together four document books.

THE PRESIDENT: Oh yes, I see. So there is only one more to be translated.

DR. THOMA: Yes.

*[The Tribunal adjourned until 11 April 1946 at 1000 hours.]*

# ONE HUNDRED AND FIFTH DAY

Thursday, 11 April 1946

## *Morning Session*

DR. SAUTER: Dr. Sauter for the Defendant Funk.

Mr. President, on Saturday last, when sickness prevented me from attending the session, the question came up in which sequence the defense for the Defendants Dr. Funk and Dr. Schacht should be conducted, and the President has expressed the wish to hear my statement on the subject as soon as possible. I have discussed the matter with my client and the defense counsel for Dr. Schacht and I agree to and suggest that the defense for the Defendant Dr. Schacht come first and that the case of the Defendant Funk, for reasons of suitability, should follow after the evidence for the Defendant Schacht has been completed. For the information of the Tribunal I wanted to inform you of that, Mr. President. Thank you.

THE PRESIDENT: Yes, certainly.

MR. DODD: If Your Honors please, I should like to call the attention of the Tribunal to the fact with respect to the documents for the Defendant Rosenberg, we have finished our conversations with Dr. Thoma on a number of matters which will require a hearing before the Tribunal. We were not able to agree on a number of them and, as I said yesterday, we are prepared to be heard on the applications of Dr. Schacht.

THE PRESIDENT: Very well, we will arrange a time for that. Now, Dr. Kauffmann.

DR. KAUFFMANN: Mr. President, I am now beginning the defense by presenting evidence in the case of the Defendant Kaltenbrunner. I need not emphasize how extraordinarily difficult this defense is, considering the unusual severity of the charges brought against him. I intend to present the evidence in the following way: With the permission of the Tribunal, I shall read two small documents first from the short document book; then, with the permission of the Tribunal, I shall call the defendant to the witness stand and after that I shall examine one or two witnesses.

THE PRESIDENT: The Tribunal thinks that that course would be appropriate but I wanted to draw your attention...

Dr. Kauffmann, there were four witnesses who were called for the Prosecution, Ohlendorf, Höllriegel, and Wisliceny—you asked

for leave at an earlier stage to cross-examine witnesses called for the Prosecution, Ohlendorf, Höllriegel, Wisliceny, and Schellenberg; and the Tribunal then ordered that they might be recalled for cross-examination but that they must be called before your witnesses. Therefore, the Tribunal wants to know whether you wish to call any of those for cross-examination. You do not?

DR. KAUFFMANN: No, Mr. President, I do not wish to call Ohlendorf, Wisliceny, Höllriegel, or Schellenberg.

THE PRESIDENT: Very well.

DR. KAUFFMANN: May I now read these two documents? To begin with there is the affidavit of the witness Dr. Mildner in the document book. I am asking that notice be taken of it. It is Document Kaltenbrunner-1. I am now reading:

"Affidavit. I, the undersigned, Dr. Mildner, at present in prison in Nuremberg, make the following affidavit in answer to the questions put to me by attorney Dr. Kauffmann for presentation to the International Military Tribunal in Nuremberg:

"Question Number 1: Give particulars of your career.

"Answer: I was entrusted with certain tasks of the Gestapo for about 10 years. From 1938 to 1945 I was subordinate to Amt IV, which is the Gestapo of the Reich Main Security Office in Berlin. I was in the RSHA in Berlin itself, for only about three months, that is to say, from March to June 1944. The rest of the time I was mostly chief of provincial branches of the Gestapo.

"Question Number 2: What can you say in regard to Kaltenbrunner's personality?

"Answer: From my own knowledge I can confirm the following: I know the Defendant Kaltenbrunner personally. In his private life he was beyond reproach. In my opinion his promotion from Higher SS and Police Leader to Chief of the Security Police and the SD was due to the fact that Himmler, in June 1942, after the death of Heydrich, his chief rival, would suffer no man beside or under him who might have endangered his position. The Defendant Kaltenbrunner was, no doubt, the least dangerous man for Himmler. Kaltenbrunner had no ambition to gain influence by special deeds and eventually to push Himmler aside. There was no question of lust for power in his case. It is wrong to call him the little Himmler.

"Question Number 3: What attitude did Kaltenbrunner adopt toward Amt IV (Gestapo)?

"Answer: I know of no specific limitation of the Defendant Kaltenbrunner's power with regard to the offices which were under the RSHA. On the other hand, I can say that Müller, the Chief of Amt IV, acted independently by virtue of his long experience and did not give to anyone, not even the chiefs of the other offices of the RSHA, any insight into his tasks and methods of his Amt IV. He had, after all, immediate protection from Himmler.

"Question Number 4: Did you ever see any executive orders by Kaltenbrunner?

"Answer: I have never seen any original order—that is to say, something signed in handwriting—from the Defendant Kaltenbrunner. I know quite well that orders for protective custody bore facsimile signatures or typewritten signatures. This was a routine initiated during Heydrich's time.

"Question Number 5: Did orders for executions rest in Kaltenbrunner's or Himmler's hands? Who was responsible for the setting up and running of concentration camps?

"Answer: I know that execution orders rested in Himmler's hands. So far as I know no other officials of the RSHA could issue such orders without his permission. I know, furthermore, that concentration camps were run by a special main department, namely, the SS Main Office for Economy and Administration, the chief of which was Pohl. The concentration camps had nothing to do with the RSHA. This applies to the whole administration, food, treatment, camp regulations, *et cetera*. The inspector of concentration camps was Glücks. The official channels were therefore: Himmler, Pohl, Glücks, camp commandant.

"Question Number 6: Did Kaltenbrunner order any of the concentration camps to be evacuated?

"Answer: It is not known to me that the Defendant Kaltenbrunner had issued any orders regarding the evacuation of concentration camps.

"Question Number 7: Did Kaltenbrunner issue the order to arrest all Danish citizens of Jewish religion and transport them to the concentration camp at Theresienstadt?

"Answer: No. The reason why I can answer this question exactly is because I, myself, as a member of the Gestapo, was concerned with this matter in Denmark in September 1943. The Chief of the Security Police and the SD had received the order in September 1943 to arrest all Danish Jews and transport them to Theresienstadt. I flew to Berlin to have this order canceled. Shortly afterwards an order of Himmler



arrived in Denmark according to which the anti-Jewish action was to be carried out. Kaltenbrunner, therefore, did not issue the order. I did not speak to him; in fact he was not even in Berlin.

"Read and found correct.

"Nuremberg, 29 March 1946; signed, Dr. Mildner."

Then follows the certification.

The next affidavit comes from Dr. Höttl.

MR. DODD: We are faced with a new problem. I do not think this question has arisen heretofore. The Prosecution submitted a cross-interrogatory to this man Dr. Mildner, and we are not quite certain as to just how we should proceed. Should we now offer our cross-interrogation, or at a later stage?

THE PRESIDENT: We think you should read it now.

MR. DODD: Very well.

DR. KAUFFMANN: Mr. President, may I just say one thing about that. This is the first time that I hear that the Prosecution have also put questions which have been answered by the same witness. I think this is the first case of this kind which has been put before the Tribunal.

Would it not have been appropriate to have these answers communicated to me, since I have put my affidavit at the disposal of the Prosecution a very long time ago?

THE PRESIDENT: They certainly should be. The Tribunal thinks they certainly should have been communicated to you at the same time that they were received.

DR. KAUFFMANN: Is the answer to be read nevertheless? I would rather like to raise formal objection to that and ask the Tribunal for a decision.

THE PRESIDENT: Mr. Dodd, why were these not submitted to Dr. Kauffmann?

MR. DODD: This cross-affidavit and interrogatory was taken only yesterday, and the material just was not ready until this morning. We regret that, and had it been ready it would, of course, have been turned over to him. If he would like to have some time to look it over, we, of course, would not object.

THE PRESIDENT: Dr. Kauffmann, in the circumstances we will postpone the reading of these cross-interrogatories in order that you may consider them, and, if you think it right, you may object to any of the questions or answers and we will then consider that matter.

DR. KAUFFMANN: Thank you.

May I now read the second and last document:

"Affidavit. I, the undersigned, Dr. Wilhelm Höttl, make the following affidavit in answer to the questions put to me by attorney Dr. Kauffmann for presentation to the International Military Tribunal."

THE PRESIDENT: Can you give a number to this document?

DR. KAUFFMANN: Yes, Document Kaltenbrunner-2.

"Question Number 1: Give details about yourself. What was your official position in the SD? Where did you know Dr. Kaltenbrunner?

"Answer: I was born on 19 March 1915, in Vienna; by profession, a historian. My occupation up to the time of the German collapse was that of a sub-department chief in Amt VI, Foreign Intelligence Department, of the RSHA. After Austria's Anschluss in 1938, I voluntarily joined the SD. Coming from the National Catholic Youth Movement, I made it my aim to achieve a moderate political course for my country.

"I made the acquaintance of Kaltenbrunner in 1938; he knew that the above was my aim.

"In 1941, on personal orders of Heydrich, I was called before the SS and Police Court for having religious ties and for lack of political and ideological reliability, and I had to join the ranks as an ordinary private. After Heydrich's death I was pardoned and, at the beginning of 1943, I was detailed to the office of Schellenberg, Chief of Amt VI of the RSHA. Here I was in charge of matters relating to the Vatican, as well as of matters relating to some states in the Balkans.

"When Kaltenbrunner was appointed Chief of the RSHA at the beginning of 1943, I was continually in touch with him at work, particularly since he was endeavoring to draw the group of Austrians in the RSHA nearer to him.

"Question Number 2: Give an estimate of the numbers involved at the Main Office of the RSHA in Berlin.

"Answer: The Main Office in Berlin, Amt IV (Gestapo) had approximately 1,500 members; Amt V (Criminal Police) 1,200; Amt III and Amt VI (intelligence service at home and abroad) 300 to 400 each.

"Question Number 3: What is understood by SD and what were its tasks?

"Answer: Heydrich organized the so-called Sicherheitsdienst (known as the SD) in 1932. Its task was to give to the highest German authorities and the individual Reich ministries, information on all events at home and abroad.

"The SD was purely an information service and had no sort of executive authority. Only individual persons belonging to the SD were drafted to the so-called special action commands (Einsatzkommandos) in the East. They thereby assumed executive positions, and they resigned from the SD during that period. There were special action groups and special action commands of the Security Police and the SD up to the last; also in Africa, and in Hungary, and Czechoslovakia even up to 1944. These Kommandos had nothing to do with executions. Their tasks had in the meantime assumed the nature of general security police matters. As far as I know, executions were carried out only in Russia, due to the so-called 'Commissar Order' by Hitler. Whether these Kommandos stopped or continued their activity after Kaltenbrunner was named Chief of the RSHA, I do not know.

"Question Number 4: Do you know about the 'Eichmann Operation' to exterminate the Jews?

"Answer: I learned details of the Eichmann Operation only at the end of August 1944. At that time Eichmann himself gave me detailed information. Eichmann explained, among other things, that the whole action was a special Reich secret and was known to only very few people. The total number of members of this Kommando, in my opinion, could hardly have exceeded 100.

"Question Number 5: What do you know about the relations between Eichmann and Kaltenbrunner?

"Answer: I know nothing about the official relations between the two. However, Eichmann may well have had no direct official contact with Kaltenbrunner. He often asked me to arrange a meeting with Kaltenbrunner for him. Kaltenbrunner always refused.

"Question Number 6: What was the relationship between Kaltenbrunner and Müller, the Chief of the Secret State Police (Gestapo)?

"Answer: I cannot give any details about their official relations. It is certain, however, that Müller acted quite independently. He had gained great experience in Secret State Police matters over a period of many years. Himmler thought a great deal of him. Kaltenbrunner did not think very much of him. Kaltenbrunner had neither technical schooling in police problems nor any interest in them. The intelligence service took up the main part of his attention and all his interest, especially insofar as it concerned foreign countries.

"Question Number 7: Who was in charge of the concentration camps?

"Answer: The SS Main Office for Economy and Administration had sole charge of the concentration camps; that is, not the RSHA, and therefore not Kaltenbrunner. He, consequently, had no power to give orders and no competency in this sphere. According to my opinion of him as a man, Kaltenbrunner certainly did not approve of the atrocities committed in the concentration camps. I do not know whether he knew about them.

"Question Number 8: Did Kaltenbrunner issue or transmit an order according to which enemy aviators who made forced landings were to be given no protection in the event of lynch justice being carried out by the population?

"Answer: No, I never heard about anything of the kind from Kaltenbrunner, although I was with him a great deal. As far as I can remember, however, Himmler issued an order of this kind.

"Question Number 9: Did Kaltenbrunner issue orders that Jews were to be killed?

"Answer: No, he never issued such orders, and in my opinion, he could not issue such orders on his own authority. In my opinion he was opposed to Hitler and Himmler on this question, that is, the physical extermination of European Jewry.

"Question Number 10: What church policy did Kaltenbrunner pursue?

"Answer: As adviser on Vatican matters, I often had the opportunity of speaking to him officially on this subject. He immediately supported my suggestion, made to Hitler in the spring of 1943, that a change in church policy should be effected so that the Vatican could be won over as a peace negotiator on this basis. Kaltenbrunner had no success with Hitler, as Himmler opposed him violently. Baron Von Weizsäcker, German Ambassador to the Holy See with whom I discussed the matter, failed likewise in his efforts, the result of which was that Bormann had an eye kept on him.

"Question Number 11: Did Kaltenbrunner intervene in foreign policy in the interest of peace?

"Answer: Yes; in the Hungarian question, for example. When, in March 1944, the German troops occupied Hungary, he succeeded in persuading Hitler to be moderate and to prevent Romanian and Slovak units from marching in as planned.

Due to his support, I was able to prevent a National Socialist government from being formed in Hungary as planned, for another 6 months."

[A recess was taken.]

THE PRESIDENT: Now, Dr. Kauffmann, are you going to call the defendant?

DR. KAUFFMANN: Mr. President, I have committed a small oversight. I did not read Page 5 of my document book. Those are Questions 12 and 13 of the affidavit, which I, inadvertently, did not read. I wish to apologize and ask your permission to finish it.

THE PRESIDENT: Yes.

DR. KAUFFMANN: I continue on Page 5:

"Kaltenbrunner wanted the old Austria-Hungary to be re-established on a federative basis. Since 1943 I had told Kaltenbrunner that Germany must endeavor to end the war by a peace at any price. I had informed him about my connection with an American office in Lisbon. I also informed Kaltenbrunner that I had recently made a contact with an American office in a neutral country through the Austrian resistance movement. He also declared his willingness to travel to Switzerland with me and start personal negotiations with an American representative in order to avoid further senseless bloodshed.

"Question Number 12: Do you know that Kaltenbrunner instructed the Commandant of Mauthausen Concentration Camp to hand over the camp to the approaching troops?

"Answer: It is correct that Kaltenbrunner did give such an order. He dictated it in my presence, to be forwarded to the Camp Commandant.

"Question Number 13: Can you say something briefly about Kaltenbrunner's personality?

"Answer: Kaltenbrunner was a man completely different from Himmler or Heydrich. He was therefore by conviction strongly opposed to both of them. He was appointed Chief of the RSHA, in my opinion, because Himmler did not want to run the risk of having a rival like Heydrich. It would be wrong to call him 'little Himmler.' In my opinion, he was never in complete control of the large office of the RSHA and, being very little interested in police and executive tasks, he occupied himself preponderantly with the intelligence service and with exerting influence on general policy. This he regarded as his particular sphere."

This is followed by signature, date, and certification.

THE PRESIDENT: Have you any more documents?

DR. KAUFFMANN: No.

THE PRESIDENT: Now you wish to call the defendant?

DR. KAUFFMANN: Yes.

*[The Defendant Kaltenbrunner took the stand.]*

THE PRESIDENT: Will you state your full name, please?

ERNST KALTENBRUNNER (Defendant): Ernst Kaltenbrunner.

THE PRESIDENT: Repeat this oath after me: "I swear by God—the Almighty and Omniscient—that I will speak the pure truth and will withhold and add nothing—so help me God."

*[The defendant repeated the oath in German.]*

THE PRESIDENT: You may sit down.

DR. KAUFFMANN: During the last 2 years of the war, since 1943, you have been the Chief of the Security Police and Security Service and the Chief of the Reich Security Main Office, the RSHA. You are aware, of course, that you are under extremely serious charges. The Prosecution charge you with having committed Crimes against Peace, and with having intellectually aided and abetted or participated in the crimes against the law of war and against humanity, and finally, the Prosecution connect your name with the Gestapo terror and the atrocities of the concentration camps. I now ask you, do you assume responsibility for the Counts charged as outlined and which are known to you?

KALTENBRUNNER: In the first place, I should like to state to the Tribunal that I am fully aware of the serious character of the charges against me. I know the hatred of the world is directed against me; that I—particularly since Himmler, Müller, and Pohl are no longer alive—must here, alone, give an account to the world and the Tribunal. I realize that I shall have to tell the truth in this courtroom, in order to enable the Court and the world to fully recognize and understand what has been going on in Germany during this war and to judge it with fairness.

In 1943—that is to say, 2 years before the ending of this war—I was called into an office, which fact I shall explain in detail later on.

Right at the beginning, I would like to state that I assume responsibility for every wrong that was committed within the scope of this office since I was appointed Chief of the RSHA and as far as it happened under my actual control, which means that I knew about it or was required to know about it.

May I ask permission for my defense counsel to put questions to me so as to direct my line of thought?

DR. KAUFFMANN: Will you briefly describe, in rough outlines, your career until you entered public life, and Austrian politics, that is until about 1934.

KALTENBRUNNER: I was born in 1903. My father and my grandfather were lawyers of repute; for the rest I am a descendant of farmers and scythemakers. My mother is of modest descent. She was adopted by the Belgian Ambassador to Romania and lived there for 25 years. During my childhood, which I spent in the country with a family which took very good care of me, I enjoyed on the one hand the best education and on the other hand I became familiar with the life of the simple people. I attended secondary school, high school, graduated, and in 1921 went to Graz University. First I studied chemicotechnical sciences at the Institute of Technology and later on, when my father returned from the war seriously ill and when the possibility arose that I might have to take over his solicitor's practice, I studied law. I completed these studies with the degree of Doctor of Law and Political Science in 1926.

I had a hard time. I had to earn my own living and the expenses for my studies. I had to work while I studied and for 2 years I worked as a coal miner during the night shift; and I have to thank my fate that thus I got to know the German workman much better than people usually do.

DR. KAUFFMANN: Would you be slightly more brief? Please get as quickly as possible to the period after 1934.

KALTENBRUNNER: After leaving the University I had to complete 7 or 8 years work as a candidate for the bar examination in accordance with the Austrian law, of which I spent one year in court as assistant and the rest of the time in lawyers' offices in Salzburg and Linz.

DR. KAUFFMANN: I am interrupting you for one moment with a question. Is it correct that in 1932 you became a member of the Party?

KALTENBRUNNER: I became a member of the Party in 1932 after I had belonged for several years to the Non-Partisan Movement for the Protection of the Austrian Homeland.

DR. KAUFFMANN: Did you join the SS in that same year?

KALTENBRUNNER: I think it was at the end of 1932 or maybe at the beginning of 1933.

DR. KAUFFMANN: Is it correct that even before 1933, as maintained by the Prosecution, you were public speaker of a Gau and legal adviser of an SS sector?

KALTENBRUNNER: That statement requires clarification. It is true that I made speeches in my own home province, the Gau Upper

Austria, at National Socialist meetings but primarily—or rather exclusively—to promote the Anschluss movement. I was a legal adviser just as any other lawyer of any party who, at that period of economic emergency, was willing to give legal information and advice free of charge for some hours at the end of the day to the needy, who in this case were National Socialists.

DR. KAUFFMANN: Is it true that later, in 1934, the Dollfuss Government had you arrested and that you, together with other leading National Socialists, were sent to the Kaisersteinbruch Concentration Camp? What was the cause for that?

KALTENBRUNNER: That is correct. I think that with regard to this point I must briefly describe the political situation in Austria at the time.

The Government was in the hands of a group of men who had very few followers among the people. There were two large groups of size which did not participate in the Government; the first being the leftist group, that is, the Social Democrats and Austro-Marxists, and the second being the National Socialists, which was at that time a very small group. The Government, then, did put not only the National Socialists but also Social Democrats and Communists into their detention camps in order to eliminate any political strife originating from meetings or demonstrations. I was one of those National Socialists who were arrested at that time, whose number was approximately 1,800.

DR. KAUFFMANN: Did you have another conflict with them? And were you eventually subjected to a trial for conspiracy against the Government and thereupon discharged from the custody under which you had been placed? Give in a few sentences the reasons for this procedure.

KALTENBRUNNER: This was considerably later. I was arrested in May 1935. I should say first of all that in the meantime the National Socialist attempt at revolt had taken place in Austria in July 1934. This attempt at revolt, which unfortunately also included the murder of Dollfuss, was defeated and avenged by most severe measures against a large number of National Socialists. One particularly severe measure was the law by which many thousands of National Socialists lost their jobs or professional license and the necessity arose to bring about a pacification, I should say a mitigation in principles of the Government policy. That was primarily done by two men: Langot, then the Chief Deputy of Upper Austria, and Reinthaller, a farmer and engineer. That appeasement action started at the end of 1934 in September or October, and I was invited to join that action.



DR. KAUFFMANN: Will you please, if possible, get to the period of 1938, in rough outlines?

KALTENBRUNNER: I was in no way implicated in this attempted revolt of July 1934 and that is why I was invited to join in that appeasement action. Within that program the Government themselves demanded that certain men should maintain connections with the Party leaders, with the SA, SS, and all organizations of the then forbidden movement. With the knowledge and consent of the Government and the proper police departments, I took up the connection with the SS.

In May 1935 I was arrested, suspected of establishing an illegal connection with the SS and of being engaged in high treason activity. I remained in custody for 6 months and was arraigned before the military tribunal in Wels on a charge of high treason. I was, however, acquitted of this crime since the Government themselves admitted that this assignment had been granted to me with their knowledge. All that was left over was a minor sentence for conspiracy which, however, was served by my custody.

DR. KAUFFMANN: How did you participate in the Austrian revolution which occurred in March 1938 and how did the SS participate?

KALTENBRUNNER: Shortly after my activities in connection with the Reinthaller-Langot appeasement action, I got in touch first with circles of the Anschluss movement clubs and second with those circles whose aim it was to improve conditions in Austria peacefully, by an evolutionary movement and development, and, on the other hand, to enlarge the Anschluss movement so as to win over the government themselves to that idea.

In 1937 and 1938 I attempted to come into closer personal contact with Seyss-Inquart, later Minister, and I completely adopted his political conceptions.

DR. KAUFFMANN: Are you of the opinion that the plebiscite in Austria in April 1938 corresponded with the wish of the nation?

KALTENBRUNNER: The plebiscite of 10 April 1938 was completely in accordance with the will of the Austrian population. The result of 99.73 percent for Anschluss to the German Reich was perfectly genuine.

DR. KAUFFMANN: On the occasion of the Anschluss is it right that you were promoted to SS Brigadeführer and leader of an SS sector?

KALTENBRUNNER: Yes, but first I would like to add the following to the question of the Anschluss:

The representation and opinion of the Prosecution are completely incorrect when they think that National Socialism in Austria at that time could in any way be compared with the development which had already taken place in Germany. The development of Austrian National Socialism was on the contrary completely different. The starting point was the abnormal economic depression in Austria and beyond that the Anschluss movement, and finally National Socialism made the Anschluss come true. This course, from economic depression via Anschluss movement to National Socialism, was the road of nearly all National Socialists, and the ideology of the Party program of the time was in no way responsible.

I believe this has to be taken for granted and I believe I also ought to say it first, that the Anschluss movement in Austria was backed by the people; the fact that the plebiscite in the various provinces, like the Tyrol or Salzburg, had already in previous years—I believe from 1925 to 1928—shown a result of more than 90 percent of the votes in favor of the Anschluss should now be taken into consideration.

Back in 1928 the National Council of Austria and the Austrian Federal Council signed the decree of the National Council of the year 1918 which said that both these assemblies had resolved to join the Reich; and they did not swerve from that resolution.

THE PRESIDENT: Dr. Kauffmann, I do not think you need go into these subjects as to reasons why they were in favor of the Anschluss in such detail. Will you try to confine the witness to less detail and get on to the material period?

DR. KAUFFMANN: I thought that the defendant was being held responsible for his participation in the change of regime. Therefore I wanted to have at least a few sentences said about that before this Tribunal, but I am now prepared to change the subject.

THE PRESIDENT: The witness was giving us the figures in particular plebiscites long before the Anschluss, and that seems to be quite irrelevant detail.

DR. KAUFFMANN: Then, in September 1938, you were promoted to SS Gruppenführer; is that correct?

KALTENBRUNNER: Yes. After the ensuing Anschluss I had to take over the leadership of the General SS in Austria, namely, the SS Main Sector Danube. At that time I had been promoted to brigade leader without going exactly through the preceding ranks of SS leaders. And I think it was in September that I was appointed Gruppenführer, so that my rank was made the same as that of all the other main SS sector leaders in the entire Reich.

DR. KAUFFMANN: May I question you regarding your further career in the SS? Were you in 1941 appointed Higher SS and Police Leader in Austria?

KALTENBRUNNER: In March 1938 I became a member of the Austrian Government; that is, I had to take over the position of State Secretary for Security in Austria, which was under the Ministry of the Interior. That Austrian Government was dissolved in 1941; that is to say, their activity was discontinued in favor of such bodies of administration which prevailed in the Reich; consequently, the Office of State Secretary for Security was also dissolved, and in order to retain me at the same level in the budget, I was appointed Higher SS and Police Leader, I think in July 1941.

DR. KAUFFMANN: And on 30 January 1943 you were appointed Chief of the Security Police and the SD, that is, of the so-called Reich Security Main Office. How did that appointment come about? Did you have connections with Himmler? What was said between you and Himmler on the occasion of your appointment?

KALTENBRUNNER: I must describe briefly my activities from 1941 to 1943, that is, 2 years, so as to make it clear why I was called to Berlin.

The Prosecution charge that I had led the Security Police already in Austria. In that respect the Prosecution are mistaken.

The State Police and the Criminal Police as well as the Security Service in Austria were directed centrally from Berlin and were completely removed from the power of Seyss-Inquart, then the responsible Minister, and his deputy, Kaltenbrunner. My activity as Higher SS and Police Leader in Austria—unlike the activity of the same men in the Reich—was therefore limited merely to the task of representing or leading the General SS, which in no way took up all my time.

During these 2 years I therefore followed out my intentions concerning political activity and developed a rather large political intelligence service radiating from Austria toward the southeast. I did that because, in the first place, I regretted that the Reich did not make use of at least the political and the economic resources, of all the resources which Austria could have put at the disposal of the Reich, and because the Reich with unequalled shortsightedness did not fall back upon Austria's most significant mission as an intermediary with the Southeast. Thus, my reports met with increased interest in Berlin, and since Himmler was continuously reproached by Hitler that his intelligence service, which was run by Heydrich in the Reich, did not furnish adequate reports on political results, Himmler, 8 months after Heydrich's death, felt obliged to look for a man who could free him from Hitler's reproaches that he had no intelligence service worth mentioning.

DR. KAUFFMANN: And what did you discuss with Himmler?

KALTENBRUNNER: In December 1942 he ordered me to come to Berchtesgaden, where he resided at the time, because the Führer's headquarters were in the neighborhood, on the Obersalzberg. He told me first of Hitler's reproaches and demanded that I create a central intelligence service in the Reich. We had a lengthy discussion on this subject with reference to my reporting activity of the previous years. He was then of the opinion that the best solution would be if I were to take over the Reich Security Main Office as a transition basis for the creation of such an intelligence service. I refused to do that, giving detailed reasons, namely, that I had maintained a watching and critical attitude in Austria toward the over-all development in the Reich, especially the inner political development. I explained to Himmler in detail why the Germans in Austria were disappointed and where I saw dangers that the same Austrians, who 4 years ago had turned with enthusiasm to the Reich, would become tired of the Reich. I have . . .

DR. KAUFFMANN: May I interrupt you for just one moment. It is correct, of course, that you were made the Chief of the Reich Security Main Office. Are you trying to say that you did not take over the executive powers?

KALTENBRUNNER: I am coming to that immediately. But, I must now describe that first conference with Himmler; the second one took place 2 weeks later. On that occasion I was given the order; I am referring to the first order.

But I should like to state right now—and this is drawn like a red thread through my entire career to the last days of the war—that even then I explained to Himmler on which essential points I differed with National Socialism as to the home policy of the Reich, the foreign policy, the ideology, and the violations of law by the Government themselves. I declared to him, specifically, that the administration in the Reich was too centralized; that Austria was violently criticizing that centralized system, particularly since a federative status had been granted to other countries, such as Bavaria. I told him that the creation of a new German criminal law, the way it was attempted, was wrong, and that German criminal law was casuistic. The Austrian criminal law, based on a tradition of more than one hundred years, had proved to be the best and had also been recognized abroad. I explained to him that the concepts of protective custody and of concentration camps were not approved of in Austria, but that every man in Austria wanted to be tried before a court of law.

I explained to him that anti-Semitism in Austria had developed in a completely different way and also required a different handling.

No one in Austria, I said, had ever thought of going beyond the limits of anti-Semitism as laid down in the Party program. I also said that there was hardly any understanding in Austria for the fact that the Nuremberg Laws went beyond the Party program in this respect. In Austria, since 1934, there had been a peaceful, regulated policy to allow the Jews to emigrate. Any personal or physical persecution of Jews was completely unnecessary. I am referring to a document, which is somewhere in the court record. It is a report from the Chief of Police in Vienna, dated, I believe, December 1939, which proves in accordance with statistics that between 1934 and 1939, I think, of a total of 200,000 Jews more than half had emigrated to foreign countries. Those were the problems which I discussed at that time...

DR. KAUFFMANN: And what did Himmler tell you?

KALTENBRUNNER: And I told Himmler at that time that he knew very well that I had not only no training in police matters at all, but that all my activity up to then had been in the field of political intelligence work, and that therefore, when taking over the Reich Security Main Office I did not only refuse to have anything to do with such executive offices as the Gestapo and the criminal police, but that my task to which he was appointing me, namely to set up and cultivate an intelligence service, would in fact be impeded by that. I also said that I was not only extremely different from Heydrich personally but that also material differences existed insofar as Heydrich was an expert in police matters, whereas I was not, and that the policy with which he, Himmler, and Heydrich had already discredited the Reich could not be carried on by me. My name, my honor, and my family were too sacred to me for that.

He reassured me in this respect by saying:

"You know that in June 1942 Heydrich was assassinated and that I, myself, since his death"—and this was about 6 or 7 months after Heydrich's death—"have been handling his entire office myself. This is to continue insofar that I"—this means Himmler—"will retain the Executive Offices for myself in the future. For this purpose I have at my disposal my well-trained experts, Müller and Nebe. You will not have to concern yourself with it. You take over the Intelligence Service, that is Amt III and Amt VI, as the transition basis for your Intelligence Service."

I told him at that time that an intelligence service could not be built up on the SD alone. An intelligence service which until that time had been so narrow-minded because of Heydrich, and which had been forced more and more into executive work, is *a priori* unfit to search for intelligence material.

Secondly, I told him an intelligence service ought to be smaller and, in particular, I considered it madness to have political and military intelligence separated from each other. No country in the whole world except Germany and France has adopted a two-division set-up for an intelligence service. I therefore demanded from him that he first procure a Führer order on the strength of which the intelligence system of the Armed Forces, which rested in the OKW counter-intelligence office (Amt Abwehr), should be united with the SD and should be furnished a new body of personnel, which ought to be selected and carefully screened . . .

DR. KAUFFMANN: I am interrupting you for a moment. Can you tell me in one sentence whether that unification which you just mentioned took place?

KALTENBRUNNER: Yes, it did.

DR. KAUFFMANN: With Amt VI?

KALTENBRUNNER: Yes . . .

DR. KAUFFMANN: And then another question . . .

KALTENBRUNNER: [*Continuing.*] The union was achieved by an order of Hitler dated 14 or 15 February 1944.

DR. KAUFFMANN: Now, I am asking you: After what you have just explained, did Himmler relieve you of the executive tasks and was it made known to your section chiefs and others within the Reich Security Main Office that you had been so relieved? Did this exemption of executive powers become apparent outside the office; if so, how?

KALTENBRUNNER: After this conference with Hitler in December 1942, he discharged me because I did not want to take over the Reich Security Main Office under those conditions which he had offered to me, namely, that the executive departments should be managed by himself as previously. He was so angry with me that he did not give me his hand and made me aware of his indignation in various other ways during the subsequent weeks. Toward the middle of January, the 16th or 18th, I was ordered by telegram to report to headquarters, which in the meantime had been transferred to East Prussia. I assumed that I was to get a post at the front because I had asked him for such a post. I went to headquarters with complete front equipment because I thought I had finally to expect the same fate that had been the fate of my brothers and of my other male relatives. But I was wrong. He told me:

"I have talked to the Führer and the Führer believes that the centralization and reorganization of the Intelligence Service is the right thing to do. He will initiate the necessary negotiations with the Armed Forces, and you will have to

organize and build up this Intelligence Service. It still holds that I, with Müller and Nebe, will have direct charge of the executive offices."

If you ask me now whether this limitation must have become apparent at once outside of the office, I have to answer that it was not publicized. Therefore, formally the Prosecution are right in charging me: "As far as the outside world is concerned, you never drew a demarcation line." To that I can say only that I believed I could rely on the words of my then superior. He had stated it to me in the presence of Nebe and Müller and had given them the personal order to communicate with him directly and to report to him and receive the orders from him directly, just as it had been done for the 8 months since Heydrich's death.

I am stating here emphatically that the special assignments which had been given to Heydrich, such as, for instance, the assignment with regard to the final solution of the Jewish problem, were not only not known to me at the time but were not taken over by me. Nominally I was the Chief of the Reich Security Main Office. As such, I considered the Intelligence Service and the reorganization of this Intelligence Service my proper sphere, as I have said before. The directives were given by Himmler, but in State Police and Criminal Police matters things were often done, as I found out very much later, in the name of the Chief of the Reich Security Main Office, that is, in my name, without my knowing of or seeing these orders when they were issued.

The chiefs of the Gestapo office and the Criminal Police office sometimes carried out these orders from Himmler, as I said, in such a way that they also signed my name as Chief of the Reich Security Main Office and, as I probably might have to state in detail later, they so continued routine habits which prevailed during Heydrich's time, who united all executive powers in his hand and who could delegate the respective powers to Müller and Nebe. But I never had those powers from the beginning, and therefore I could never delegate any partial powers. Perhaps I ought to supplement the declaration of my responsibility in this respect by saying that possibly I have not taken the necessary care to make it clear that no order of the State Police or the Criminal Police should bear my name. That I did not concern myself with that sufficiently is Himmler's fault but probably also my fault.

DR. KAUFFMANN: I draw your attention to the testimony given by Ohlendorf; Chief of Amt III, on 3 January 1946, here in court. I am putting this testimony to you briefly, and will you please make your comment. This testimony refers to the question of the executive power. The witness Ohlendorf said, in reply to my question:

"If you ask the question whether Kaltenbrunner could bring about executive actions I must answer in the affirmative. If you then name Müller and Himmler, to the exclusion of Kaltenbrunner, then I must point out that according to the organization of the Reich Security Main Office Müller was the subordinate of Kaltenbrunner, and consequently orders from Himmler to Müller were also orders to Kaltenbrunner, and Müller was obliged to inform Kaltenbrunner of them."

And then he goes on to say:

"I can say that I know absolutely that"—I refer to the expression that often came up, namely—"to the last washerwoman" Himmler reserved the final decision for himself. As to whether or not Kaltenbrunner had no authority at all in this regard, I can make no statement."

I am asking you now: Are the essential points of Ohlendorf's testimony correct?

KALTENBRUNNER: It needs clarification. He is right insofar as nothing in the construction, or rather organization of the Reich Security Main Office had changed since Heydrich's time. Therefore he could immediately assume that there was an official channel Himmler-Kaltenbrunner-Müller. But during the conferences, that is, when Himmler gave orders, it was specifically not the case. And to the other remark, that Himmler reserved for himself the decision to the last washerwoman, that proves that the situation actually had changed insofar as, contrary to that of Heydrich's time, I, the medium between Himmler and Müller, was not active, so that orders from Himmler went immediately to Müller.

DR. KAUFFMANN: I am now coming to the individual charges preferred by the Prosecution and first submit to you a document for your statement. It is the Document L-38, Exhibit USA-517. It is now Kaltenbrunner-3. This deals with the charge preferred against Kaltenbrunner...

THE PRESIDENT: Dr. Kauffmann, has this already got an exhibit number? You do not want to give it another exhibit number.

DR. KAUFFMANN: Very well. If it is not necessary I shall be glad to drop that.

[Turning to the defendant.] The question here is, first, whether all signed orders for protective custody bore your name either in facsimile or typewritten; and the second question is whether you have given such orders—that means whether these orders are authentic; and further, in case both these questions are to be answered in the negative, whether you had knowledge of these orders. Please, will you comment on this document?



KALTENBRUNNER: I must say that not once in my whole life did I ever see or sign a single protective custody order. During the interrogations before the Trial a number of protective custody orders which bear my name were put before me when I was being questioned. Every one of these protective custody orders had this signature, that is, my name, either typewritten or in teletype, and I think in one or two cases it was a facsimile.

DR. KAUFFMANN: You will admit that, naturally, this statement of yours is not very credible. It is a monstrosity that the office chief should not know that such orders were signed with his name. How do you explain this fact, a fact which appears from the documents which bear your signature?

KALTENBRUNNER: I had not finished my explanation. I stated that this signature "Kaltenbrunner" on protective custody orders can only have come about through the fact that the office chief, Müller, signed the name of the Chief of the Reich Security Main Office on these protective custody orders, as he had done during Heydrich's time when he was allowed to do so, and that in addition he instructed his sections, for instance, the protective custody section. Accordingly quite obviously he continued to do so during my time, because otherwise these orders could not have been put before me now. But he has never informed me of this and he never had authority from me to do this. To the contrary, this was out of the question and, on the other hand, superfluous, because he was immediately under Himmler and he had authority from Himmler, so that he just as well might have written "Himmler" or "By order of Himmler" or "For Himmler." I admit that this remains a fact about which the Tribunal will not believe me, but nevertheless it was so and Himmler never gave me a cause to define my attitude in this respect, since he had told me that I was not to carry out these executive tasks.

DR. KAUFFMANN: This means you are trying to say that the use of your signature was in fact a misuse?

KALTENBRUNNER: Müller did not have authority to use it.

DR. KAUFFMANN: Was it known to you that protective custody was possible at all, that it was admissible, and that it has been carried out very often?

KALTENBRUNNER: As I stated, I discussed the concept "protective custody" with Himmler as early as 1942. But I think even before that, already on two occasions in detail, I have had correspondence about this concept once with him and once with Thierack; I consider protective custody as it was handled in the German Reich as being a necessity in the interests of the State, or rather a measure which was justified by the war, only in a small number

of cases. Apart from that, I have declared myself against and protested against this concept and against the application of any protective custody as a matter of principle, and have often used profound legal historical arguments as reasons. On several occasions I had reported on that subject to Himmler and also to Hitler. I have, in a meeting of public prosecutors—I think it was in 1944—publicly voiced my views against it, since I have always been of the opinion that a man's liberty must be counted among his highest privileges and that only a judgment of a court, firmly rooted in a constitution, should be allowed to infringe on that liberty or to deprive him of it.

DR. KAUFFMANN: I am now discussing with you the reasons stated in such orders for protective custody. The following, among others, were given as reasons: activities hostile to the Reich; spreading of atrocity rumors; assault; refusal to work; religious propaganda. Please, will you express your views on the reasons for these protective custody orders. Are they to be approved of?

KALTENBRUNNER: No. I consider these reasons for protective custody to be wrong. I think I had better explain in detail. My attitude is due to the fact that all the offenses which have been enumerated here might just as well have been dealt with by due process of law in the state courts. For that reason I consider protective custody as such to be wrong, and more so if ordered for the reasons mentioned.

DR. KAUFFMANN: So that, if I understand you rightly, I can summarize your attitude as follows: You want to say that you had no knowledge of the protective custody orders, that you had no authority to issue them, and that you did not sign them, but since these protective custody orders were issued within the Amt IV, you ought to have had knowledge of them. Is this summary correct or is it not?

KALTENBRUNNER: It is correct.

DR. KAUFFMANN: We now come to another charge preferred against you by the Prosecution. The Prosecution claim that you are the intellectual principal or accessory in the crimes committed when you, as the Chief of the Security Police and the SD, had civilians murdered and ill-treated by the so-called Einsatzgruppen. I am going to quote a few sentences from the testimony given by the witness Ohlendorf here in this courtroom on 3 January 1946. Ohlendorf's testimony incriminates you. I wish to have your comment on it. Ohlendorf says with reference to the Einsatzgruppen:

"After his entry into service, Kaltenbrunner had to concern himself with these questions and consequently must have known the background of the Einsatzgruppen which were under his authority."

He goes on to say with reference to the valuables taken away from the executed persons that these had been sent to the Reich Ministry of Finance or to the Reich Security Main Office, and he finally states that the officer personnel for these Einsatzgruppen were recruited from the leading personnel of the State Police and only in a small percentage from the SD. What do you have to say in answer to the question whether or not you knew of the existence and the significance of these Einsatzgruppen?

KALTENBRUNNER: I had no idea of the existence of these Einsatzkommandos as described by Ohlendorf. Later on I heard that they existed, but this was many months later. With regard to this point I want to say the following: It is known to the Tribunal from Ohlendorf's testimony and from Hitler's and Himmler's decrees which have been discussed here that orders for the killing of people had been given. These Einsatzkommandos have never been reorganized during the time when I was in office. These Einsatzkommandos which had been active up to that time were also dissolved or had been put under different commands before I took over the office. I do not know whether the witness Ohlendorf has stated here just when he returned from his Einsatzkommando.

DR. KAUFFMANN: 1942.

KALTENBRUNNER: That is before I came into office. The Einsatzkommandos must later on have come under the charge of the Higher SS and Police Leaders in the occupied territories or, what is even more probable, under the charge of the chief of the anti-partisan units. I cannot answer your question precisely, since I have, as a consequence of my imprisonment for 1 year, no possibility at my disposal for re-examining the organizational scheme.

I think you also asked me whether it is known to me that valuables, which had been taken away from executed persons, had been sent to my office or the Reich Ministry of Finance. I know nothing of such shipments but I do know that Himmler had given an order to everybody—not only to the Security Police but also to other organizations in the occupied territories, be it the Municipal Police or the anti-partisan units or those sections of the Armed Forces which were under his command—saying that all such property was to be surrendered to the Reich Ministry of Finance.

DR. KAUFFMANN: Were these Einsatzgruppen the result of an order from Hitler or of an order from the Reich Security Main Office?

KALTENBRUNNER: It can only be due to an order from Hitler.

DR. KAUFFMANN: You just said that in the course of time you heard about the existence and significance of these Einsatzgruppen. Can you say exactly on which date you gained that knowledge?

KALTENBRUNNER: I assume that this was at the time when I had my first audience with Hitler, or it may have been on the following day when I reported to Himmler, in November 1943.

DR. KAUFFMANN: 1943?

KALTENBRUNNER: Yes.

DR. KAUFFMANN: If you had knowledge at that time of the Einsatzgruppen and their significance, then the question arises what your attitude about them was and, in case you condemned them, what you did to have them abolished? Did you have a possibility to do so or did you not?

KALTENBRUNNER: I said before that an Einsatzkommando was never set up under my direction or my orders. The existence and the previous activities of such Einsatzkommandos became known to me late in the fall of 1943 and I knew that I would have to resist this misuse of the men who were under the Reich Security Main Office. I think on 13 September 1943, I saw Hitler on the occasion of a visit of Mussolini who had just been liberated. However, my attempt to talk to him failed, because of this State visit. Consequently, in November, after Himmler had put it off repeatedly, I had to go again to headquarters to report officially on my activities up to that time. And on that occasion I talked to the Führer about the facts on the Einsatzkommandos which had become known to me; and not only about that, but also I had the first opportunity to approach him about the entire Jewish problem, and about the orders given, by him and by Himmler against the Jews which had also become known to me at that time. However, I would like to make a detailed statement on this subject, if you will go through that problem in detail with me.

DR. KAUFFMANN: I now present...

KALTENBRUNNER: I should like only to add that the Einsatzkommandos no longer came into the picture, so far as I was concerned, because the entire personnel was committed to the anti-partisan fighting or rather to the Higher SS Police Leader, I believe, on exactly the same day when I entered my office in Berlin. I believe I can remember distinctly that Von dem Bach-Zelewski was appointed Chief of anti-partisan fighting on 30 January 1943. This may also be the reason for the fact that I did not see any reports from the Einsatzkommandos themselves.

DR. KAUFFMANN: I am now turning to another document, L-51, Exhibit USA-521. This is an extremely incriminating document on which I want to have your comment.

Zutter is the adjutant of the camp commander of Mauthausen. He reports regarding a...

KALTENBRUNNER: Is this photostat copy the same?

DR. KAUFFMANN: Yes, it is the same.

He is reporting regarding an execution order, referring to 12 or 15 American parachutists who were captured in 1945. Will you please look through the document and state to the Tribunal whether you have given this order, and whether you had authority to issue such an order?

KALTENBRUNNER: Yes. You have discussed this same document with me only yesterday. Therefore it is known to me. I declare that this incident and this order never did come to my knowledge until this document was put before me or until its presentation by the interrogator.

DR. KAUFFMANN: Do you know Ziereis?

KALTENBRUNNER: As I have already said once, I have never had authority to sign on my own initiative a so-called order for execution, that is to say a death sentence. Apart from Hitler nobody in the whole Reich had such authority except Himmler and the Reich Minister of Justice.

DR. KAUFFMANN: With regard to this point, I wish to mention that the Prosecution have also presented execution orders which bore the signature of Müller. Do you want to say something about that?

KALTENBRUNNER: If an execution order had Müller's signature, Müller can have signed it only on the strength of an order from Himmler, or on the strength of a sentence submitted by a court.

DR. KAUFFMANN: It suggests itself to say that if Müller had authority to issue execution orders, then you ought to have had such authority to a much higher degree? Is that right?

KALTENBRUNNER: No, that is not so, because Himmler never gave me such power; also the set-up of the chain of command—the State Police remained under Himmler after Heydrich's death even after I took office—would have contradicted that.

DR. KAUFFMANN: The incident referred to in this document is of such importance, particularly since foreign parachutists are involved, that one ought to suppose that it was known in the high offices in Berlin, that means also in the Reich Security Main Office. Did you receive no knowledge of the matter afterwards?

KALTENBRUNNER: I want to add the following statement: The incident definitely did not come to my knowledge.

THE PRESIDENT: Have you finished with Document L-51?

DR. KAUFFMANN: No, I am still concerned with Document L-51, but I am about to leave it.

THE PRESIDENT: Well, ought you not to refer him to the particular incident which is referred to toward the end of the document, where it says, "Concerning the American military mission which landed behind the German front in the Slovakian or Hungarian area in January 1945"? It goes on, then, to say that the—I think it was adjutant of the camp said, "Now Kaltenbrunner has approved of the execution. This letter was secret and had the signature, 'signed, Kaltenbrunner.'"

I think you should put that to him.

DR. KAUFFMANN: Yes, certainly. He knows the document, and I believe he knows every single word of this document, but I will put it to him again.

[Turning to the defendant.] It says here:

"I estimate the number of those persons captured to have been 12 or 15. They were wearing a uniform which was either American or Canadian, brown-green color, and blouse and beret. Eight to 10 days after their arrival, the order for their execution was received by means of a radio message, or a teletype. Standartenführer Ziereis—that is the Camp Commandant—came to see me in my office and said: 'Now Kaltenbrunner has approved of the execution.' This letter was secret and had the signature, 'signed, Kaltenbrunner.'

"These men were then shot on the spot, and their valuables were given to me by Oberscharführer Niedermeyer."

Would you, very briefly, go into this?

KALTENBRUNNER: It is completely out of the question that this incident was ever brought to my knowledge, or that it happened with my participation. This is not only plainly a crime against the laws of warfare, but it is, in particular, an action which could or necessarily had to produce the most serious foreign political consequences.

Certainly, in such an incident it is out of the question that Müller or even I, myself, as Müller's superior, could have taken action; but in such a case thorough discussions must absolutely have taken place previously between Himmler, himself, and the Führer.

It is to be assumed, furthermore, that quite definitely someone—maybe the competent section for international law—would have been consulted on the subject first, and that such an action, of course, would have been decreed either by the Führer or by Himmler. In any case, it would have been an order from one of these two personalities. However, even that is unknown to me.

If, therefore, this man Zutter relates here that the order bore my signature, then this can only have been an order which, as I have described before, bore my name falsely since I never had

authority to issue an order for execution. Therefore, the signature should have been "Himmler" or "By Himmler's order, Müller."

DR. KAUFFMANN: So that you attribute this signature also to a misuse?

KALTENBRUNNER: No, I believe that it does not concern my signature at all here, but that Ziereis should have said "Himmler." It cannot be assumed that Müller would have signed his or my name in such a way.

DR. KAUFFMANN: We are now coming to another subject. I am referring now to Document 1063(b)-PS, Exhibit USA-492, which is a letter from the Reich Security Main Office, dated 26 July 1943. It has the signature, "Signed, Dr. Kaltenbrunner," and the letter is addressed to all Higher SS and Police Leaders. It refers to the establishment of correctional labor camps.

Will you please look through the letter? The Prosecution charges you with the establishment of correctional labor camps. Please explain what your attitude really was, and state whether that letter originated from you.

KALTENBRUNNER: With regard to this point I have to make the following statement: I conclude from the fact that my name is typewritten that this order had not been shown to me before it went out: otherwise I would have signed it in handwriting.

DR. KAUFFMANN: Do you know of a Himmler order?

KALTENBRUNNER: As far as I can remember, I learned of it afterwards.

DR. KAUFFMANN: What is a correctional labor camp? Is it identical with a concentration camp?

KALTENBRUNNER: No, correctional labor camps were camps in which men were put if they were Germans, if they had dodged the compulsory labor service in spite of repeated reminders, or foreign workers who had left their place of work without permission and had been arrested, or workers who were caught during round-ups on trains, railway stations, and roads, and who had no permanent labor contract. Confinement to such correctional labor camps covered a period of 14 to 56 days.

DR. KAUFFMANN: It says in this letter that these correctional labor camps, so far as administration and orders were concerned, are under the State Police offices and, furthermore, under the commanders of the Security Police and the SD. Did you have knowledge of that?

KALTENBRUNNER: A so-called breach of labor contract in the Reich or an evasion of the Compulsory Labor Service by a German citizen is an offense which actually could have been dealt with by

the law courts just as well. The law had provisions to that effect but because of the enormous number of workers employed in the entire Reich—not only Germans, who amounted to 15 or 20 million, but also 8 million foreign workers—it would have been impossible to start hundreds of thousands of proceedings in courts, in hundreds of thousands of cases, for failure to work or breach of contract, or willful desertion from the place of work, *et cetera*. It goes without saying that furthermore the police departments had no kind of prison accommodations extensive enough to give short-term sentences in such cases. For these reasons such correctional labor camps were established at the headquarters of the State Police or Criminal Police offices.

DR. KAUFFMANN: Did you, in principle, approve of the establishment of such correctional labor camps?

KALTENBRUNNER: Yes, in principle I approved of them although I myself did not participate in issuing this order. I did, however, learn of it later and considered it proper in view of the labor shortage and the conditions then prevailing in the Reich.

DR. KAUFFMANN: Did you have knowledge regarding the treatment of the internees: for what period of time they were confined to these camps, what their food ration was, and how they were employed?

KALTENBRUNNER: As I said, these correctional labor camps were designed to impose confinement for a period not exceeding 56 days. Even this, I believe, was possible only after a man had previously been sentenced for 3 similar offenses. Normally, confinement to correctional labor camps...

THE PRESIDENT: The question was whether you knew the condition in the camps? You are not answering it at all.

DR. KAUFFMANN: Will you please answer my question?

KALTENBRUNNER: I think you asked me...

DR. KAUFFMANN: I asked you whether you knew anything regarding the treatment, the food, and the employment of the internees in these correctional labor camps?

KALTENBRUNNER: I knew only that correctional labor camps had the task of doing labor for public works, that is, in public construction work like roads, railroad maintenance, and, in particular, for repair of damage due to air raids. The internees of correctional labor camps have been seen by the entire population when so employed. The impression which the appearance of these internees made...

THE PRESIDENT: He still is not answering the question.



DR. KAUFFMANN: I put three exact questions to you. I want exact answers to these questions. Do you know anything about the treatment, the food rations, and the employment? Did you have any knowledge of this, "yes" or "no"?

KALTENBRUNNER: I said with regard to the employment...

DR. KAUFFMANN: Did you have knowledge?

KALTENBRUNNER: Yes, I did. The other two factors I did not know from personal observation.

DR. KAUFFMANN: Did officers of Amt IV ever report to you on this?

KALTENBRUNNER: Not officers of Amt IV; but this problem has, of course, been discussed repeatedly within the political home intelligence service, namely, about the utilization of such labor for emergency work.

DR. KAUFFMANN: Did you see no cause to interfere?

KALTENBRUNNER: I had no cause to interfere with these camps for any misuse, since no case of abuse of camp internees was known.

DR. KAUFFMANN: I am now coming to another document, Document Number 2542-PS, Exhibit Number USA-489. This is a statement, an affidavit by Lindow. He states that until the beginning of 1943, and by order of Himmler, Soviet Russian political commissars and Jewish soldiers were taken out of prisoner-of-war camps and transferred to concentration camps, to be shot. Furthermore, he states that Müller, the Chief of Amt IV, had signed the execution order. If the Tribunal so desire, I shall quote a few sentences from this document.

*[To the defendant.]* What is your statement with reference to this document?

KALTENBRUNNER: This order of Himmler's was not known to me, and may I point out that it was used from 1941 until 1943, which means, in the main, during the time when I was not in Berlin.

DR. KAUFFMANN: I am now reading a particularly incriminating passage—Paragraph 4. Will you please make a statement regarding the question whether this report on these facts also refers to the time after 1943 or to the time before 1943, or whatever you may be able to say about the date.

KALTENBRUNNER: I know the passage.

DR. KAUFFMANN: "In the prisoner-of-war camps at the Eastern Front, there were small Einsatzkommandos which were led by members of the Secret State Police of lower rank. These Kommandos were attached to the camp commandant and had the task of selecting those prisoners of war

who were to be executed in accordance with the orders issued, and of reporting their names to the Gestapo office."

KALTENBRUNNER: About this, I...

DR. KAUFFMANN: One moment. From Paragraph 2, I am quoting the last paragraph: "These prisoners of war were first of all discharged as a matter of form and then taken to a concentration camp for execution." Now I am asking you what knowledge did you have of these facts?

KALTENBRUNNER: I had no knowledge of these facts. Moreover, it is impossible that I could have gained knowledge of them, of orders which were issued in 1941 and which, as this witness says, continued to be actually in force until the middle of 1943; it is impossible that, in order to stop the execution of these orders, during the last days, I could have in time...

DR. KAUFFMANN: But actually, it cannot be denied that within the Reich Security Main Office there was a Section IV A 1, that is, a part of the Gestapo, and that this section functioned from 1941 until the middle of 1943, and that it carried out such orders. It can be assumed obviously that you, too, must have been informed about this extremely grave situation, which was inhuman and prohibited by international law, does it not?

KALTENBRUNNER: I was not informed of it.

DR. KAUFFMANN: I am now turning to the subject of concentration camps and the responsibility of the defendant in that sphere.

THE PRESIDENT: We will adjourn now.

*[The Tribunal recessed until 1400 hours.]*

### *Afternoon Session*

MR. DODD: Dr. Kauffmann has told me that he had an opportunity to read two cross-interrogatories which we wish to submit—the cross-interrogatories of Dr. Mildner and Dr. Höttl. I told Dr. Kauffmann that it might be well, in order not to disquiet the Defendant Kaltenbrunner, if they were read before he completed his examination.

THE PRESIDENT: Do you agree that it would be better that this cross-examination should be read now, so that the defendant can deal with any points he wishes to deal with?

DR. KAUFFMANN: Yes, that will be satisfactory.

COLONEL JOHN HARLAN AMEN (Associate Trial Counsel for the United States): The first affidavit, if it please the Tribunal is the affidavit of Dr. Rudolf Mildner:

"I, the undersigned, Dr. Rudolf Mildner, made the following affidavit in answer to cross-interrogations by representatives of the Office of United States Chief of Counsel, relating to my affidavit of 29 March 1946, made in response to questions by Dr. Kauffmann for presentation to the International Military Tribunal:

"Question Number 1: Confirm or correct the following biographical data:

"Answer: In December 1939 I became Chief of the Gestapo Office in Chemnitz; in March 1941 I became Chief of the Gestapo Office in Katowice; in September 1943 I became Commander of the Sipo and SD in Copenhagen; in January 1944 I became Inspector of the Sipo and SD in Kassel; on 15 March 1944 I was made Deputy Chief of Groups IV A and IV B of the RSHA; in December 1944 I became Commander of the Sipo in Vienna; in December 1944 I became Deputy Inspector of the Sipo in Vienna.

"All of these appointments after January 1943 were made by Kaltenbrunner as Chief of the Security Police and SD.

"Question Number 2: Is it not true that while you were Gestapo leader at Katowice you frequently sent prisoners to Auschwitz for imprisonment or execution; that you had contacts with the Political Department (Abteilung) at Auschwitz during the time that you were Chief of the Gestapo in Katowice with regard to inmates sent from the district of Katowice; that you visited Auschwitz on several occasions; that the Gestapo 'SS-Standgericht' frequently met in Auschwitz and you sometimes attended the trial of prisoners; that in 1942 and again in 1943, pursuant to orders by Gruppenführer

Müller, Chief of Gestapo, the Commandant of Auschwitz showed you the extermination installations; that you were acquainted with the extermination installations at Auschwitz since you had to send Jews from your territory to Auschwitz for execution?

"Answer: Yes, these are true statements of fact.

"Question Number 3: With respect to your answer to Question Number 5 in your affidavit of 29 March 1946, did all orders for arrest, commitment to punishment, and individual executions in concentration camps come from RSHA? Was the regular channel for orders of individual executions from Himmler through Kaltenbrunner to Müller, then to the concentration camp commandant? Did the WVHA have supervision of all concentration camps for administration, utilization of labor, and maintenance of discipline?

"Answer: The answer is 'yes' to each of the three questions.

"Question Number 3-a: Is it true that conferences took place between SS Obergruppenführer Kaltenbrunner and SS Obergruppenführer Pohl, Chief of the WVHA and Chief of Concentration Camps? Was Dr. Kaltenbrunner acquainted with conditions in the concentration camps?

"Answer: Yes, and because of these conferences and on the occasion of discussions with the two Amt chiefs—Gruppenführer Müller, IV, and Gruppenführer Nebe, RSHA, the Chief of Sipo and SD—SS Obergruppenführer Dr. Kaltenbrunner should be acquainted with conditions in concentration camps.

"I learned from SS Gruppenführer Müller, Chief of Amt IV, that regular conferences took place between RSHA and Amt Group D of WVHA.

"Question Number 4: Is it not a fact that in July or August of 1944 an order was issued to commanders and inspectors of the Sipo and SD by Himmler through Kaltenbrunner, as Chief of the Sipo and SD, to the effect that members of all Anglo-American Commando groups should be turned over to the Sipo by the Armed Forces; that the Sipo was to interrogate these men and shoot them after questioning; that the killing was to be made known to the Armed Forces by a communiqué stating that the Commando group had been annihilated in battle; and that this decree was classified top secret and was to be destroyed immediately after reading?

"Answer: Yes.

"Question Number 5: With respect to your answer to Question Number 7 of your affidavit of 29 March 1946, is it not a fact that:

"a) After you sent a telegram to Müller requesting that the Jewish persecution be stopped, you received an order by Himmler that the Jewish actions were to be carried out?

"b) That you then flew to Berlin for the purpose of talking with the Chief of the Sipo and SD, Kaltenbrunner, personally, but that since he was absent you saw his deputy, Müller, Head of Office IV of the RSHA, who, in your presence, wrote a message to Himmler containing your request that the persecutions of the Jews in Denmark be stopped?

"c) That shortly after your return to Copenhagen you received a direct order by Himmler sent through Kaltenbrunner as Chief of the Sipo and SD, stating that 'The Anti-Jewish actions are to be started immediately'?

"d) That for the purpose of carrying out this action the Sonderkommando Eichmann, which was under the Gestapo, was sent from Berlin to Copenhagen for the purpose of deporting the Jews in two ships which it had chartered?

"Answer: Yes, to each question—a), b), c), and d).

"Question Number 6: Is it not a fact that the action of Sonderkommando Eichmann was not a success; that Müller ordered you to make a report explaining the causes for the lack of success in deporting of Jews; and that you sent this report directly to the Chief of the Sipo and SD, Kaltenbrunner?

"Answer: Yes. That is right.

"I have read the above questions and answers as written and swear they are true and correct..."—*et cetera*.

And now, may it please the Tribunal, the cross-affidavit of Wilhelm Höttl...

THE PRESIDENT: [*To the defendant.*] Did you want to say something?

KALTENBRUNNER: I wanted to ask the High Tribunal for permission to reply immediately to this interrogatory, so that I...

THE PRESIDENT: Yes, you will have an opportunity in a moment. The purpose of having it read now was that your counsel might ask you any questions with reference to it, and then you can make any comment that you want to. Colonel Amen will go on and read the other cross-interrogatory, and then your own counsel will continue your examination-in-chief. Do you understand?

KALTENBRUNNER: Yes, I understand. I merely wanted to suggest, since these two matters are treated separately and concern two different spheres, that I may first express my views and then later...

THE PRESIDENT: We cannot have the matter interrupted in that way. You will be able to deal with it in a moment.

Go on, Colonel Amen.

COL. AMEN: The affidavit of Dr. Mildner dated 9 April 1946 will become Exhibit Number USA-791 and the affidavit of Wilhelm Höttl which I am about to read, dated 10 April 1946, will become Exhibit Number USA-792.

"I, the undersigned, Dr. Wilhelm Höttl, make the following affidavit in response to cross-interrogation relating to an affidavit executed by me on 30 March 1946 answering questions put by Dr. Kauffmann for presentation to the International Military Tribunal.

"1) With respect to question Number 3: Please give the following information:

"a) Explain the basis of your statement that when persons belonging to the SD were transferred to the Einsatzkommandos of the Sipo and SD they resigned from the SD. Your attention is invited to the fact that Ohlendorf, the head of the SD, has testified to the contrary.

"b) Explain the basis for your statement that Einsatzkommandos had nothing to do with executions. Your attention is invited to the fact that your testimony in this regard is likewise in direct conflict with the head of the SD, Ohlendorf.

"c) What was Hitler's so-called 'Commissar order' and when did you first acquire knowledge of this order?

"With respect to 1a): In my affidavit I did not speak of a permanent separation from the SD but of a leave of absence for the time of activity with an Einsatzkommando. By that was meant that they did not exercise their SD functions during this time; that this function was inactive.

"With respect to 1b): My affidavit appears to have been misunderstood concerning this point. I did not state that Einsatzkommandos had nothing to do with executions but only that not all Einsatzkommandos were concerned with executions. I mentioned as an example the Einsatzkommandos in Africa, Hungary, and Slovakia. In connection with that, I said that these Einsatzkommandos had nothing to do with executions; by that I meant not directly with the actual executions.

"With respect to 1c): I, myself, do not know the so-called 'Commissar Order' of Hitler. Dr. Stahlecker, who commanded an Einsatzgruppe of the Sipo and the SD in Russia, told me in the summer of 1942 that the executions of commissars and Jews were carried out on the basis of the Commissar Order

which covered the extermination of the Jews under the reason of their being bearers of Bolshevism.

"2) With respect to question Number 4: Is it not a fact that Heydrich, as Chief of Sipo and SD, gave the initial instructions to Eichmann concerning the extermination of Jews; that in the RSHA Eichmann's immediate superior was Müller, Chief of the Gestapo; that Müller was first the deputy of Heydrich and later of Kaltenbrunner?

"With respect to 2): Yes, I heard from Eichmann, probably in August 1944, that Heydrich had given him these directives. It is also correct that Müller, Chief of the Gestapo, was Eichmann's immediate superior. As far as I know, Müller was the deputy of Heydrich and later of Kaltenbrunner only in the field of the Gestapo, as likewise were the other office chiefs in their respective fields.

"3) With respect to question Number 5: Is it not a fact that you know from your discussions with Kaltenbrunner and with Eichmann that they came from the same community in Austria and were exceptionally close friends; that Eichmann always had direct access to Kaltenbrunner and that they frequently conferred together; that Kaltenbrunner was well pleased with the manner in which Eichmann carried out his duties; that Kaltenbrunner was very interested in the extermination work performed by Eichmann; that you personally know that Kaltenbrunner went to Hungary for the purpose of discussing the extermination program in Hungary with officials of the Hungarian Government and with Eichmann and other members of his staff in Hungary? Please confirm or correct these statements and make any statement necessary to clarify your answer.

"With respect to 3): I heard from Eichmann that he knew Kaltenbrunner from Linz and that they served there together in 1932 in an SS Sturm. I do not know that they were particularly close friends or that Eichmann always had direct access to Kaltenbrunner and that they conferred frequently.

"I do not know the details about their official relationship. I do not know whether Kaltenbrunner also had conferences concerning the program of extermination of Jews in Hungary during his stays in Hungary in the spring of 1944. Winkelmann, the former Higher SS and Police Leader in Hungary, must know exactly about that, since, according to my knowledge, he, together with Kaltenbrunner, visited persons in the Hungarian Government.

"4) With respect to question Number 6:

"a) Is it not known to you that Müller, Chief of the Gestapo, always conferred with Kaltenbrunner on matters of importance relating to the functions of his office—particularly with respect to executions of special inmates?

"b) Did you know that Kaltenbrunner was the Higher SS and Police Leader and State Secretary for Security in Austria after the Anschluss until his appointment as Chief of the RSHA, a period of 5 years, during which time his attention was devoted exclusively to police and security matters?

"c) What is the basis of your statement that the intelligence service took up the main part of Kaltenbrunner's attention and all his interest?

"With respect to 4a): Details concerning the official relationship between Müller and Kaltenbrunner are not known to me. However, I could note on several occasions that Müller was with Kaltenbrunner to report about the work of his department.

"With respect to 4b): Kaltenbrunner was not exclusively occupied with police and security matters during his activity as Higher SS and Police Leader in Austria or as State Secretary for Security respectively. Without a doubt he had political interests besides, since the Higher SS and Police Leaders were the representatives of Reichsführer-SS Himmler in all matters.

"With respect to 4c): I could note that by virtue of my official relationship with him, Members of other departments also frequently expressed themselves in the direction that he favored and furthered Amt III, and particularly Amt VI and the Mil (Military Amt).

"5) With respect to question Number 7: Answer the following:

"a) What did you personally have to do with concentration camps and what, therefore, is the basis for your answer to this question?

"b) Did you know that all orders for commitments to, releases from, and executions in concentration camps came from the RSHA?

"c) Did you know that the RSHA gave direct orders to commandants of concentration camps? State such orders of which you have personal knowledge.

"d) What are the atrocities committed in concentration camps to which you refer in your answer to this question, and when and in what manner did you acquire knowledge that atrocities were committed in concentration camps?

"With respect to 5a): Personally, I had nothing at all to do with concentration camps. However, I liberated a number of



persons from concentration camps and therefore know the difficulties that were made by the concentration camp staffs who always called attention to orders of the WVHA of the SS in such cases since the inmates were needed for the armament industry.

"With respect to 5b): It is known to me that orders for commitments into concentration camps and discharges therefrom came from the RSHA. I did not know that all such orders came from the RSHA. I have no knowledge of orders for executions by the RSHA.

"With respect to 5c): I do not know any details and do not know personally any orders concerning this. In the cases in which I intervened for discharges I addressed myself either to Kaltenbrunner directly or to Amt IV. When the processing was of long duration, I received the answer several times from officials of Amt IV that difficulties had come about through the WVHA of the SS.

"With respect to 5d): When Hungary was occupied by German troops in March 1944, several of my Hungarian acquaintances went to concentration camps. After I had achieved their liberation, they told me of bad treatment and atrocities in the Mauthausen Concentration Camp. At that time, I sent an official communication concerning this to the director of the Linz Gestapo Office, with the request to inquire into this matter with the concentration camp commandant Ziereis. Ziereis, however, denied this, as I was informed in the reply. In August 1944 Eichmann told me that there were extermination camps (Vernichtungslager) besides concentration camps.

"6) With respect to question Number 9: What is the basis for your opinion that Kaltenbrunner opposed Hitler and Himmler on the program for the physical extermination of European Jewry?

"With respect to 6): Kaltenbrunner told me after his conference with representatives of the International Red Cross in March 1945 that he was against Hitler's and Himmler's program on the question of the extermination of the European Jews. In my response to Question 9, that Kaltenbrunner had given no orders for killing of Jews, the words 'according to my knowledge' are missing.

"7) With respect to question Number 11: Who was the American whom you told Kaltenbrunner that you had contacted in a neutral country in 1943? Did Kaltenbrunner agree to travel to Switzerland with you to meet a representative of the Allied Powers with whom you were in touch through the Austrian Resistance Movement; and, if so, whom?

"With respect to 7): The American liaison man in 1943 was a member of the United States Legation in Lisbon. I am no longer familiar with his name. The connection via the Austrian Resistance Movement with an American organization in Switzerland existed only from the beginning of fall 1944. Kaltenbrunner agreed to travel there with me about 20 April 1945.

"8) With respect to question Number 12: On what date did Kaltenbrunner order the commandant of Mauthausen Concentration Camp to hand over the camp to approaching troops? At whose insistence did Kaltenbrunner issue this order, and for what reason?

"With respect to 8): I cannot state the exact date of Kaltenbrunner's order to the commandant of Mauthausen Concentration Camp to hand over the camp to approaching troops. It should have been during the last days of April 1945. It is not known to me at whose insistence and for which reason he gave this order; possibly this was connected with his discussions with SS Standartenführer Becher whom I met with him at the time.

"The above statements are true; I made this declaration voluntarily and without compulsion..."—*et cetera*—"Dr. Wilhelm Höttl."

DR. KAUFFMANN: Do the High Tribunal wish the defendant to state his position or reply to these two documents?

KALTENBRUNNER: Yes, I request that I may do so right away.

DR. KAUFFMANN: Then please give us your views first on the Mildner document. I shall call your attention, perhaps, to question Number 2 which seems relevant to me. It says:

"Is it not true that... in 1942 and again in 1943, pursuant to orders by Gruppenführer Müller, the Commandant of Auschwitz showed you the extermination installations...?"

It would seem from this that the Chief of Amt IV knew about these matters.

KALTENBRUNNER: Dr. Kauffmann, may I interrupt you.

As far as I could notice in the last sessions a procedure of so-called surprise affidavits is being employed against me. This surprise affidavit is applied for the first time in my case. In spite of that I am glad and grateful, even without having had the opportunity to see this affidavit before, to express my views on the whole and on each point of this affidavit.

As to Dr. Mildner—question Number 1: He is asked about his position which he held in the Security Service. He enumerated the

positions which he held from 1939 to 1944. During the time I was in office he served as an inspector of the Sipo and the SD in Kassel, as a deputy in Amt IV, as a deputy inspector in Vienna in 1944, and as a commander of the Sipo in Vienna also in 1944. He said, "All of these appointments after January 1943 were made by Kaltenbrunner as Chief of the Security Police and the SD."

That is incorrect. I never appointed anybody to high positions such as these held by Mildner.

Were Mildner asked about this before this Tribunal, he would have to confirm that. He was apparently not questioned on that by the Prosecution. In case of an appointment of an official for the Security Police and the SD I was simply asked and notified in each case of such an appointment of a functionary of the Security Police and SD, because as an inspector of the SD and of the Security Police he had to have in this capacity a strong intelligence section, that is, a subdivision of Amt III and IV which were at my disposal as far as intelligence was concerned, so that as Chief of the intelligence service I had to know who was inspector of a subdivision in Vienna, Kassel, or in Copenhagen. Later he also had to have my intelligence orders for his groups. That was the only reason why I had to be notified of such appointments. It was not within my competence to appoint any official of the Sipo; that is a definite misrepresentation arising from this affidavit of Dr. Mildner.

In reply to Question 2, if it is said that in his positions in Chemnitz and Katowice, in the year 1939 and 1941, he had to transport prisoners to Auschwitz for imprisonment and execution, then, in the first place, this falls into the period before I had assumed office, and, secondly, this was purely an executive measure of those agencies of which I was never in charge and never took over. He therefore can never have acted here as my deputy.

As to question Number 3, here the Prosecution accuses him:

"... That the Gestapo 'SS Standgericht' frequently met in Auschwitz and you sometimes attended the trial of prisoners;" —in other words that he attended the executions—"that in 1942 and again in 1943, pursuant to orders by Gruppenführer Müller... the Commandant of Auschwitz showed you"—that is Mildner—"the extermination installations; that you were acquainted with the extermination installations at Auschwitz since you had to send Jews from your territory to Auschwitz for execution."

In my opinion, I could perhaps only be incriminated on one point. The question is this: "Did Mildner once, in the year 1943, see such installations or did he attend the shootings?" First of all, the

Prosecution did not show whether this "one time" took place before or after I assumed office.

DR. KAUFFMANN: Will you please be a little briefer and more to the point.

KALTENBRUNNER: Excuse me, Doctor, but I have to be able to refute every single word.

THE PRESIDENT: Dr. Kauffmann, we do not want the witness to argue upon this document. If he has anything to say about the facts, then he can do it, but not argue on it.

DR. KAUFFMANN: Yes, that is my opinion, also.

[Turning to the defendant.] I am asking you—an especially important and incriminating point, it seems to me, is question Number 3; explain if you will, I read: "...did all orders for arrest..."—*et cetera*—"individual executions from the RSHA"; and then: "Was the regular channel from Himmler through Kaltenbrunner to Müller, and then to the concentration camp commandant?" And then the answer, "yes."

Please answer briefly.

KALTENBRUNNER: I have already explained today that the authority and power to order executions rested only to a small extent with the Minister of Justice, and with Himmler. Nobody else in the entire Reich had the possibility or the authority to order that. Further, despite the official channels—Himmler, Kaltenbrunner, Müller—such an order from Himmler was never forwarded to me; these orders must have gone from Himmler to Müller. To put this question to Mildner is wrong for the single reason that the man was not with me and cannot know whether I ever received such an order from Himmler. It is only a conclusion which he draws from the normal organizational set-up.

DR. KAUFFMANN: That is a matter for the Defense later on; you need not talk about that.

THE PRESIDENT: You are not looking at the words. What he is asked is, "Was the regular channel...?" That is the question. What is the regular channel for orders from Himmler to you and Müller?

KALTENBRUNNER: Your Lordship, I have already explained the question how Himmler himself ruled on the competencies. Just think of June 1942, of Heydrich's death. From that day on—it is a written order and was announced publicly—Himmler took charge of the entire RSHA and assumed all the duties which had been Heydrich's. In January 1943 I was appointed Chief of the RSHA, after it had been announced that the executive power and competence of the State Police and Criminal Police remain with

Himmler, no change was to be made, and the Chiefs of Amt IV and V, Müller and Nebe, would continue to be directly under Himmler. For that reason the organizational scheme as it existed at the time of Heydrich was no longer applicable for Amt IV and V when I joined the staff.

DR. KAUFFMANN: Now, Question 3-a: There it says, "Was Dr. Kaltenbrunner acquainted with conditions in the concentration camps?" Here also it is not explained just what is meant by "conditions" in concentration camps, but it is most likely to be interpreted that those conditions which have been attested by witnesses are meant. The witness said, "Yes."

KALTENBRUNNER: Dr. Kauffmann, you are overlooking a very important sentence, the last one, on Question Number 3. Here the Prosecution ask: "Did the WVHA have supervision of all concentration camps for administration, the utilization of labor, and maintenance of discipline?" This sentence is tremendously important for the following reasons: The Prosecution endeavor to shift the entire guilt for the destruction of human life from the WVHA to the RSHA, and, if the High Tribunal want to find the truth . . .

THE PRESIDENT: Just a minute. This is again a long argumentative speech. The only question which arises, it seems to me, upon this question 3-a, is: Did a conference take place between Kaltenbrunner, Pohl, and the chief of the concentration camps? If he says that they did not, then that is an answer that he makes to the affidavit; that is the only question of fact.

DR. KAUFFMANN: Yes, that was not the question; I am of the same opinion.

[Turning to the defendant.] Please answer "yes" or "no" to the question which was just put to you. Did such conferences between Pohl, Müller, and yourself take place?

KALTENBRUNNER: I never had conferences with Pohl and Müller. I had to have semi-annual conferences with Pohl because Pohl was, as Chief of the WVHA, the Finance Minister for the entire SS and Police and the funds for my entire intelligence service had to come from Pohl insofar as the Reich Finance Ministry did not provide for all the personnel.

DR. KAUFFMANN: Now, please answer one further question: Who was responsible for the administration of concentration camps, the general treatment, food, *et cetera*?

KALTENBRUNNER: The entire competence and jurisdiction in concentration camps, from the moment an internee stepped through the gate of a concentration camp until his release or his death in the concentration camp, or—the third possibility—until the end of

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the war at which time he was liberated, rested exclusively with the WVHA.

DR. KAUFFMANN: Now another question for the complete clarification. I am assuming that these things were exclusively under the jurisdiction of the WVHA, which had nothing to do with the RSHA. But it is correct, is it not, that only through measures of the Secret Police—by issuing orders for protective custody—that internment in these camps could take place. I just want to define clearly these limitations.

KALTENBRUNNER: There is no doubt that that is correct in respect to individual internments on the basis of individual orders for protective custody which, I admit, were partly based on illegal reasons, as I have already stated. However, most of the internments did not take place on orders from the RSHA but came from the occupied territories—and from there came, for instance, the big transports which Fichte mentioned in the first document.

DR. KAUFFMANN: But then these are, without doubt, the offices which were in charge of internments: the Gestapo offices or the Gestapo regional head offices.

KALTENBRUNNER: No, not alone.

DR. KAUFFMANN: But they did participate?

KALTENBRUNNER: No, not alone. One way for internment was the order for protective custody by the Gestapo, another one was the order for protective custody by the Kripo or the courts.

DR. KAUFFMANN: Now, a further statement. Will you please make a statement to Question Number 5, the action in Denmark?

THE PRESIDENT: Have you dealt with Question Number 4 yet?

DR. KAUFFMANN: Not yet, Mr. President.

[Turning to the defendant.] I go over to Question Number 4. "Is it not a fact that in July or August of 1944 an order was issued to commanders... by Himmler through Kaltenbrunner, as chief... to the effect that members of all Anglo-American commando groups should be turned over to the Sipo by the Armed Forces?"

Mr. President, I wanted to deal with this question comprehensively at a later time and by means of documents, but, if you wish me to, I can deal with it now.

THE PRESIDENT: I do not care how you deal with it. I thought you were taking him through this document.

KALTENBRUNNER: High Tribunal, may I perhaps answer it right away? The answer to this question is very simple. The Prosecution itself, through a document, has, in a completely different form, charged that the State Police had incriminated

themselves by falsifying the facts. In that document the Prosecution states that Müller gave the approval; but here the deponent is told, "issued . . . by Himmler through Kaltenbrunner as Chief of the Sipo and SD." And that document, as far as I recall—I do not know the number—is signed by Müller.

DR. KAUFFMANN: I will submit that document to you. It is Document 1650-PS, Exhibit USA-246. This document is headed, "Gestapo office, Cologne; Branch Office Aachen." It is a teletype and dated "4 March 1944; top secret":

"Subject: Measures against escaped prisoners of war who are officers or nonworking, noncommissioned officers, with the exception of British and American prisoners of war."

THE PRESIDENT: Surely that has nothing to do with it. This is a document of March, and the document that the question refers to is in July or August.

DR. KAUFFMANN: I cannot hear.

THE PRESIDENT: The document you have now put forward is a document in March 1944. The Question Number 4 relates to a document in July or August 1944.

DR. KAUFFMANN: July or August 1944? I have no such document, Your Honor. Perhaps the defendant can tell us now whether such an order by Himmler existed and whether such a Himmler order was transmitted by him—"yes" or "no."

KALTENBRUNNER: I heard about the existence of such an order for the first time here. I believe it is a mistake on the part of the Prosecution that the question was put to Mildner as July or August. I believe the Prosecution means the document of 4 March 1944.

DR. KAUFFMANN: Then you are saying that this order from July is not known to you?

KALTENBRUNNER: I did not know this order nor did I know about it during my term of office.

THE PRESIDENT: Dr. Kauffmann, it is perfectly obvious, isn't it, that the document to which you are referring has nothing to do with this question at all, because this document of March concerns measures to be taken against captured, escaped prisoners of war who are officers or noncommissioned officers, except British and American prisoners of war. That is the document.

DR. KAUFFMANN: I do not have a document of July or August 1944.

THE PRESIDENT: I don't know whether there is a document of July or August 1944 at all. What I am saying to you is that the

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document which you put to the witness now—of March 1944—can't be the document referred to in question Number 4, for it deals with an entirely different subject.

DR. KAUFFMANN: Yes. That is right, Your Honor. I believe I can explain this, Mr. President. I assume that the testimony by the witness refers to the so-called Commando order of Hitler of 18 October 1942, and that a result of this order is meant here. I believe it is that way.

THE PRESIDENT: Colonel Amen, can you tell us whether the Prosecution, in putting this question, were referring to a document of March 1944, or whether they were referring to a document of July or August 1942?

COL. AMEN: We, Your Lordship, were not referring to any document that was brought up by the witness. But since that time we have confirmed from another document—which I think we have here at the table—referring to this same document or a document of that same date. Now, the witness' feeling was that that document had been destroyed after reading. But that there was such an order apparently is borne out by another document which we have here which has not come before the Tribunal in any way at all. In other words, this document was brought up in the first instance by the witness himself.

THE PRESIDENT: But has the document to which Dr. Kauffmann has referred of March 1944 got anything to do with it?

COL. AMEN: That is not the document and has nothing whatsoever to do with it.

DR. KAUFFMANN: Then shall I pass on to the next question, Your Honor?

THE PRESIDENT: Yes.

DR. KAUFFMANN: It is the question of the persecution of Jews in Denmark. Will you make a statement to that?

KALTENBRUNNER: The statement in the affidavit of Mildner which was read by you this morning is alone correct.

DR. KAUFFMANN: Is that your statement?

KALTENBRUNNER: I never had anything to do with the removal of Jews from Denmark. Such an order could have been given only by Himmler; and that this was a direct order given by Himmler was confirmed by Mildner.

DR. KAUFFMANN: Point c) of the question Number 5 says, "That shortly after your return to Copenhagen you"—that is, the witness Mildner—"received a direct order by Himmler sent through Kaltenbrunner, as chief..."



**KALTENBRUNNER:** I never had an order like that go through my hands and I never received an order like that from Himmler. It is also absolutely impossible, because Denmark had her own Higher SS and Police Leader who was the direct representative of Himmler right there, and who was immediately subordinate to him and not to RSHA. This Higher SS and Police Leader was at the same time Commander of the Sipo. Organizationally I could not give such an order to Denmark.

**DR. KAUFFMANN:** In Question Number 6 it is asked: "Is it not a fact that the action of Sonderkommando Eichmann was not a success; that Müller ordered you"—that is Mildner—"to make a report . . . directly to the Chief of the Sipo and SD, Kaltenbrunner?"

The witness Mildner answered that in the affirmative. Is such a report from Denmark known to you?

**KALTENBRUNNER:** I not only do not know this report, but I know with certainty—I spoke to Himmler not once but a dozen times about this—that he received every report from Eichmann directly, in many cases without informing Müller.

**DR. KAUFFMANN:** Then let us turn to Höttl's affidavit. As far as I can see there are no important changes from the affidavit given me. Do the High Tribunal wish for me to put questions on that matter?

Then let us turn to question Number 5b). It states:

"It is known to me that orders for commitments into concentration camps and discharges therefrom came from the RSHA. I did not know that all such orders originated with the RSHA. I have no knowledge of orders for executions by the RSHA."

What can you say to that?

**KALTENBRUNNER:** Orders for execution could only have come through RSHA when Himmler had ordered Müller to forward these orders. But I believe that took place only in a few isolated cases and mostly after Müller had informed Himmler that a court had passed judgment.

**DR. KAUFFMANN:** Mr. President, the defendant asked me several minutes ago to make a statement with reference to Document 1063-PS which we have discussed. He had contested his signature; I believe that he wishes to say now that it is his signature. It is the document of the RSHA of 26 July 1943. Do you want the document?

**THE PRESIDENT:** Dr. Kauffmann, is it 1063-PS? Have you the original there?

**DR. KAUFFMANN:** I have only a photostatic copy; not the original, Your Honor.

THE PRESIDENT: Well, what is the question?

DR. KAUFFMANN: [*Turning to the defendant.*] Are you ready?

KALTENBRUNNER: Yes. There is a mistake on your part, Dr. Kauffmann. I have not contested my signature, but have stated that I must assume that I received knowledge of this order only after it had been published and that the original order presumably did not carry my signature. That is what I said. But I do remember now, through the clause, "certified-Employee," that it was apparently an order of which the original was signed by me at the time.

Furthermore I remember from the first few words of the decree, "The Reichsführer SS has approved..." *et cetera*, that this order was based on a personal report which I must have made to Himmler, and that with this report—I call your attention to the date, 26 July 1943—I apparently made the first attempt with Himmler to mitigate or alleviate the conditions; namely, that in such cases for which people hitherto were committed to concentration camps they should in minor cases no longer be put in concentration camps but in labor education camps and that there was to be a differentiation between concentration camps and labor education camps. Therefore, in my opinion it was the result of my first attempt with him against the system of concentration camps.

And third, I would like to point out that this decree carries the number IIc and thereby is not a decree which came from the Police executive offices such as State Police or Kripo but from the administrative level.

DR. KAUFFMANN: That is a sufficient explanation.

The Prosecution hold you responsible for the commitment of politically and racially undesirable persons into concentration camps. How many concentration camps became known to you after your appointment as Chief of the RSHA?

KALTENBRUNNER: At the time of my appointment I knew three concentration camps. At the end of my official activity there were 12 in the entire Reich.

DR. KAUFFMANN: How many were there in all?

KALTENBRUNNER: There was a thirteenth. That was the SS prison camp near Danzig. There were altogether thirteen concentration camps in the Reich.

DR. KAUFFMANN: How can you explain the chart which you saw here with the many red dots which were alleged to be concentration camps?

KALTENBRUNNER: That presentation is definitely misleading. I saw this chart hanging here. All the armaments centers, factories,

*et cetera*, in which internees from concentration camps were used for labor must have been characterized as concentration camps. I cannot explain in any other way the deluge of red dots.

DR. KAUFFMANN: Do you differentiate between the smaller camps and the regular concentration camps, and if so, why?

KALTENBRUNNER: The difference is very obvious for the following reasons: Any worker who worked in armament industries—that is, each internee—worked in the same enterprise, in the same factory, as every other German or foreign worker. The difference was merely that the German worker at the conclusion of his working hours, at the end of the day, returned to his family, whereas the internee of the labor camp had to return to the camp.

DR. KAUFFMANN: You are accused of establishing the Concentration Camp Mauthausen, that you visited this camp repeatedly. The witness Höllriegel, who testified here, said he had seen you in this camp. He also claims to have seen you inspecting the gas chambers while they were in operation. There is an affidavit of Zutter, who has already been mentioned today and who claims to have seen you at the Concentration Camp Mauthausen. From this the Prosecution conclude that you, too, must have known exactly about these conditions which were beneath human dignity. I am asking you now, is this evidence correct or wrong? When did you inspect these camps, and what observations did you make?

KALTENBRUNNER: The testimony is wrong. I did not establish any concentration camps in Austria where I was until 1943. I did not establish a single concentration camp in the Reich from 1943 onwards. Every concentration camp in the Reich as I know today, and as has been proved here with certainty, was established on orders of Himmler to Pohl. This applies also—and I wish to emphasize this—to the Mauthausen Camp. Not only were Austrian authorities excluded from establishing the Mauthausen Camp, but they were unpleasantly surprised because neither was the conception of a concentration camp in that sense known in Austria, nor was there a necessity for establishing concentration camps anywhere in Austria.

DR. KAUFFMANN: And now, in Germany, in the Reich proper?

KALTENBRUNNER: What do you mean by that?

DR. KAUFFMANN: I am asking regarding your knowledge of conditions there.

KALTENBRUNNER: I heard gradually more and more about conditions in concentration camps. It is apparent that I must have heard of these things already by way of the entire Reich intelligence service and its news channels for home politics.

DR. KAUFFMANN: Did you not, as testified by Höllriegel, see the gas chambers in operation?

KALTENBRUNNER: Never; neither while they were operating nor at any other time did I see a gas chamber.

THE PRESIDENT: You are going too fast. Make pauses between your questions and answers and don't speak too fast. He said that he had gradually by way of Intelligence, heard of the concentration camps in the Reich. Is that right?

DR. KAUFFMANN: Yes.

[Turning to the defendant.] You heard gradually about conditions in the concentration camps, that is what you said, is it not?

KALTENBRUNNER: Yes.

DR. KAUFFMANN: Do you recall my last question?

KALTENBRUNNER: No.

DR. KAUFFMANN: Whether you saw the gas chambers in operation?

KALTENBRUNNER: Yes, I already answered that I never saw a gas chamber, either in operation or at any other time. I did not know that they existed at Mauthausen and testimony to that effect is entirely wrong. I never set foot in the detention camp at Mauthausen—that is, the concentration camp proper. I was at Mauthausen, but in the labor camp, not in the detention camp. The total complex of Mauthausen, as I remember it today, extends over an area of 6 kilometers. Within this area there is a space of perhaps 4½ or 5 kilometers of labor camps. There are the largest granite quarries in Austria, and they were owned by the city of Vienna.

DR. KAUFFMANN: A picture has been shown in which you appear together with Himmler and Ziereis.

KALTENBRUNNER: I was just coming to that. The quarries belonged to the city of Vienna. The city of Vienna had a vital interest not to be excluded from the deliveries of granite which they used for paving the streets of Vienna. Now, according to a Reich law, as I learned later, this large quarry was expropriated from the city of Vienna by the WVHA—Pohl—and the city of Vienna was excluded from the supply of granite for quite some time. Now, the city turned to me to approach Himmler on this. It happened that Himmler was visiting and inspecting southern Germany and decided to visit Austria and Mauthausen and asked me to see him there. In that way, it came about that I was with Himmler at this quarry. Whether or not I was photographed at that time, I do not know. I have not seen the picture and I cannot say whether I am in it.

I might add something. Neither at this time nor at any other time did Himmler ever take me into a concentration camp or suggest that he do so; as I learned later, he had certain reasons for not doing so. I would not have attended such an inspection for I knew very well that as far as I was concerned, he would, as he did with others whom he had invited on such visits, show me "Potemkin villages" and not conditions as they actually were; and, except for a handful of men in the WVHA, no one else was allowed to see how things really were in concentration camps.

DR. KAUFFMANN: Now, may I ask you—you are speaking about a handful of men—you did not belong to this group?

KALTENBRUNNER: No, I did not. This handful of men were Himmler, Pohl, Müller, and Glücks, and the camp commanders.

DR. KAUFFMANN: As far as Camp Mauthausen is concerned, there is a document on which we would like to have your views. The Document Number 1650-PS, which has already been submitted, dated 4 March 1944, is the so-called Bullet Decree. It deals with Camp III:

"Measures against recaptured prisoners of war, officers and nonworking, noncommissioned officers, with the exception of British and American prisoners of war."

This document is known to the Tribunal in its contents. I do not believe that I need read it. The Defendant Kaltenbrunner is to make a statement, whether these facts became known to him.

THE PRESIDENT: I did not hear the reference to it, the number.

DR. KAUFFMANN: Document 1650-PS, Exhibit Number USA-246.

THE PRESIDENT: Perhaps that would be a good time to break off for 10 minutes.

*[A recess was taken.]*

THE MARSHAL: May it please the Tribunal, a report is made that the Defendant Göring is absent from this session of the Court.

DR. KAUFFMANN: Have you the Document 1650-PS, and have you read it?

KALTENBRUNNER: Yes, I have read it.

DR. KAUFFMANN: This, as emphasized, is the famous Bullet Decree. When did you hear of this?

KALTENBRUNNER: I did not know the actual decree; this must have been a decree issued long before I came into office. Neither had I seen this teletype copy of the document given to me here.

DR. KAUFFMANN: I am drawing your attention to the signature which reads "Müller."

KALTENBRUNNER: Actually, the man was entitled to sign such a decree if it did in fact exist. But I have heard—this I would like to add—at the time of 1944-1945 from the liaison officer between Himmler and Hitler by the name of Fegelein when I made my report to headquarters, which at that time, I believe, was already in Berlin, I heard the name Bullet Decree, which to me was an absolutely strange conception. So I asked him what it was. He replied that this was a Führer order and that he knew no more than that, except that he had heard that this was a special type of prisoner of war.

I was not satisfied with that reply, and so, on the same day, I sent a teletype message to Himmler in which I asked him to look into an order of the Führer which was called Bullet Decree. At that time I did not know either that the State Police was concerned with the Bullet Decree.

Then a few days later, Müller came to see me on Himmler's behalf, and gave me a decree to read which, however, did not come from Hitler, but from Himmler, in which Himmler stated that he was transmitting this to me as a verbal order of the Führer. Referring to this, I replied to Himmler that I noticed in this Führer decree that again the most elementary principles of the Geneva Convention were violated, although this had been going on from a time long before I had assumed office and there had been other violations following that. I asked him to intervene with the Führer, and I attached to this letter the draft of a letter from Himmler to Hitler, asking the Führer (a) to cancel that decree, and (b) at any rate, to relieve the subordinate departments of the burden on their conscience.

DR. KAUFFMANN: What was the result?

KALTENBRUNNER: The result was positive. Although the Bullet Decree and a number of other equally depressing orders were not repealed, it was positive insofar as in February 1945 Hitler permitted me for the first time to get in touch with the International Red Cross, an action which had been strictly prohibited before.

DR. KAUFFMANN: This action with reference to the Red Cross was initiated by you, and did this action refer to the inspection of concentration camps?

KALTENBRUNNER: In that connection I must answer "yes" and "no," for it coincided with the request made by the Red Cross and its president, Burckhardt, for immediate and direct contact. I would like to say the attempt of both sides coincided.

But please do not misunderstand me. Apart from that there were, of course, numerous attempts—I would almost like to say,

behind Hitler's back—to get in contact with the Red Cross, in which connection I call attention for instance to the continuous contact the Foreign Office had with them.

DR. KAUFFMANN: If I understand you correctly, you want to cite the request to Professor Burckhardt to visit the concentration camps, as an exonerating circumstance for yourself.

KALTENBRUNNER: Yes, of course, but I should like to talk about that later in greater detail, because it is premature at this stage.

DR. KAUFFMANN: The Prosecution have stated that during the time you were in office two concentration camps had been newly established, Lublin and Hertogenbosch. Did you hear anything about that? Who could have ordered the establishing of these two camps?

KALTENBRUNNER: I do not know the date when these two camps were set up. The one in Lublin and the other one in Hertogenbosch were subordinate through the channel of the WVHA to the Higher Police and SS Leader of the occupied countries in which they were situated, so that the main offices in Berlin had nothing to do with them.

DR. KAUFFMANN: Now, will you please answer this question with "yes" or "no": Had the concentration camp at Auschwitz been known to you as such?

KALTENBRUNNER: No, I did not know about it until November of 1943.

DR. KAUFFMANN: Were you, simultaneously with learning of the camp's existence, informed of the significance of this camp, namely, that it was exclusively an extermination camp for Jews handed over by Eichmann?

KALTENBRUNNER: No, it could not have been known to anybody as such, for the question put to Himmler, "Why was such a large camp being installed there?" was always answered by him, "Because of the proximity of the large armament works." And I think he mentioned then Vitkovice and others.

At any rate—and I think this must be emphasized—there was such a complete secrecy regarding what went on in Auschwitz, that the statements of not only the defendants but of anyone else who might be asked by the Americans, "Do you know about it?" and answers in the negative must be believed.

DR. KAUFFMANN: The most atrocious excesses are connected with this camp in Auschwitz. This concentration camp was under the spiritual leadership of the infamous Eichmann. Now I am asking you: When did you get acquainted with Eichmann?

KALTENBRUNNER: I became acquainted with Eichmann in my home town, Linz. The Prosecution have stated—and today the attempt was made to establish from an affidavit—that I was a friend, or at least a close acquaintance, of Eichmann. I would like to make the following statement on this with particular reference to my oath. I have a different conception of a close acquaintance or even a friendship.

I learned of Eichmann's existence in Linz because his father, as director of an electrical construction company at Linz, consulted my father as a lawyer, and thus they knew each other; and because, he, the son of his father, attended the same high school as my brothers.

Therefore, the statement of Höttl that I had met Eichmann in an SS platoon at Linz is wrong, because when I joined the SS Eichmann had already fled to Germany, as I learned later.

Secondly, the Prosecution state that I met the same Eichmann for the first time in 1932 and for the second time in February or March 1945. Therefore, I did not see him for 13 years and after that last meeting I never saw him again.

On the basis of these two personal meetings, I can draw the conclusion that I was neither a friend of his nor that we were closely acquainted. It is true that on that second occasion he accosted me and said, "Obergruppenführer Eichmann is my name; I come from Linz too." I said, "Pleased to meet you. How are things back home?" But there was no official contact.

DR. KAUFFMANN: Witness Lammers stated yesterday that in the RSHA a conference took place regarding the so-called "final solution." Did you know about it?

KALTENBRUNNER: No. I think that the witness Lammers, and another witness, too, stated that Eichmann, possibly under my name, had called a meeting at the RSHA in Berlin during February or March 1943, a so-called discussion with department chiefs. I have to say to that, that nominally I did commence my services in Berlin on 30 January, but in fact, until May I was not in Berlin except for a few official visits, but in Vienna, where I was enlarging my intelligence service in order to transfer it eventually to Berlin.

DR. KAUFFMANN: One further question to that. When did you hear, for the first time, that the camp at Auschwitz was an extermination camp?

KALTENBRUNNER: Himmler told me that in 1944, in February or March. That is, he did not tell me, he admitted it.

DR. KAUFFMANN: What was your attitude upon learning this?

KALTENBRUNNER: I did not hear the question.



DR. KAUFFMANN: What attitude did you adopt when you heard about it?

KALTENBRUNNER: I had no knowledge of Hitler's order to Heydrich regarding the final solution of the Jewish problem at the time I took up my office. In the summer of 1943 I gathered from the foreign press and through the enemy radio...

THE PRESIDENT: This is not an answer to your question. You asked him what he did when he found out that Auschwitz was a concentration camp. He is now making a long speech about Heydrich. You asked for his attitude. I suppose you meant what he did when he first heard that Auschwitz was an extermination camp, in February or March 1944. He is now telling us a long story about something having to do with Heydrich.

DR. KAUFFMANN: Please try to give me a direct answer to that question. What was your attitude after you heard about that? Answer quite briefly and very concisely, please.

KALTENBRUNNER: Immediately after receiving knowledge of this fact, I fought, just as I had done previously, not only against the final solution, but also against this type of treatment of the Jewish problem. For that reason I wanted to explain how through my intelligence service I became acquainted with the whole Jewish problem, and what I did against it.

THE PRESIDENT: We still don't know what you did...

DR. KAUFFMANN: What did you do? I am asking you for the last time.

KALTENBRUNNER: In order to explain what I did I must explain how I reacted, just as I have to tell you what I heard about it.

DR. KAUFFMANN: Just explain to us your reactions.

KALTENBRUNNER: First I protested to Hitler and the next day to Himmler. I did not only draw their attention to my personal attitude and my completely different conception which I had brought over from Austria and to my humanitarian qualms, but immediately, from the first day, I concluded practically every one of my situation reports right to the very end by saying that there was no hostile power that would negotiate with a Reich which had burdened itself with this guilt. Those were the reports I put to Himmler and Hitler, particularly pointing out also that the intelligence sector would have to create the atmosphere for discussions with the enemy.

DR. KAUFFMANN: When did the Jewish persecution end?

KALTENBRUNNER: October 1944.

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DR. KAUFFMANN: Do you want to say that this was due to your intervention?

KALTENBRUNNER: I am firmly convinced that this is chiefly due to my intervention, although a number of others also worked toward the same end. But I do not think that there was anyone who kept dinning it into Himmler's ears every time he met him or that there was anyone who would have spoken so openly and frankly and with such self-abnegation to Hitler as I did.

DR. KAUFFMANN: Was that instruction to Eichmann an instruction which came from Hitler and Himmler to the RSHA and then to Eichmann, or was it a strictly personal order outside the competence of the RSHA?

KALTENBRUNNER: Naturally I can only reconstruct the situation today, since I was not there when these orders were issued; but I have reason to assume that the channels for this order were: Hitler, Heydrich, Eichmann; and that Himmler, shortly after Heydrich's death, kept on working with Eichmann and probably very often even excluded Müller.

DR. KAUFFMANN: The witness Wisliceny, who was examined here—and this I am going to put to you—stated on 3 January that practically the final solution was carried out between April 1942 and October 1944. Wisliceny referred to a personal order from Himmler and stated further that Eichmann was personally charged with the task. But he goes on to say, "The extermination of Jews continued under Kaltenbrunner without any reduction or alleviation." Reports made by Eichmann to that effect were sent at regular intervals to Kaltenbrunner through Müller. It is stated that in 1944 Eichmann called personally on Kaltenbrunner, and Wisliceny affirms having seen Kaltenbrunner's signature on such reports to Himmler.

That was Wisliceny's testimony. Now my question: Is this testimony true in its essential points?

KALTENBRUNNER: The testimony is wrong, but I can clarify it. Wisliceny may have seen my signature once, not on a report to Himmler which I had received from Eichmann and Müller, but on a letter which I wrote to Himmler, a copy of which I passed on to Müller and Eichmann for their information and in which I referred to my last report—verbal report—to Himmler regarding the Jewish question. It was on this occasion that, for the first time, I heard of Eichmann's activity in that respect, and, in order to make it clear to Eichmann that I did not want to be associated with that activity, I had Müller give this man a copy of the letter to Himmler. In that letter I asked Himmler to define his attitude so that, since the Führer again had ordered me to report to him,

I could give the Führer a full report on Himmler's activities and therefore wanted an early decision.

DR. KAUFFMANN: The witness Höttl has stated in an affidavit that he had heard from Eichmann that a total number of 4 to 5 million Jewish persons had been exterminated, about 2 million of them in Auschwitz. Have you heard any such figures?

KALTENBRUNNER: I have never heard such figures. But I approached Himmler on that subject and asked him whether he had any idea of all these crimes so far. The reason I put that question to him was that he would realize the extent of the catastrophe which was bound to follow. He replied to me that he had no figures. I do not believe it. I believe he had them.

DR. KAUFFMANN: Do you want to assume a responsibility in this connection or do you want to deny it?

KALTENBRUNNER: I must deny it completely, because I hope to be able to prove through Burckhardt that there was nobody who exposed himself more on this question in favor of another solution.

DR. KAUFFMANN: I am now referring to a document, which is Document R-135, Exhibit USA-289. It is a letter from the Reich Commissioner for Riga and dated 18 June 1943. It refers to an action against the Jews at the Minsk prison. It is a letter from the commandant of the prison, addressed to the Commissioner General for Bielorrussia at Minsk. Please, will you make a statement on that document?

KALTENBRUNNER: I can see from both the signature and the name of the addressee that this letter could not have come to my knowledge. Nor have I knowledge of its contents either. Presumably this is the result about which the person is reporting in June 1943, of events which occurred before I came into office, at any rate this must refer to events which took place previously and which needed a certain amount of time.

DR. KAUFFMANN: Now, I am coming to the next document, Number D-473, Exhibit Number USA-522. It is a letter from the Chief of the Security Police and the SD, dated 4 December 1944. From this also the Prosecution conclude the Defendant Kaltenbrunner's great responsibility. It deals with the combating of criminality among the Polish and Soviet Russian civilian workers. As means for their punishment, the letter states, the Criminal Police have at their disposal police detention and transfer to a concentration camp of all asocial or dangerous prisoners. The document has the signature, "Dr. Kaltenbrunner." What are your views on that?

KALTENBRUNNER: I have no recollection that I have ever signed any such decree.

DR. KAUFFMANN: Do you deny having signed this letter at all? Or, to be more accurate, do you know anything about the matter?

KALTENBRUNNER: No.

DR. KAUFFMANN: I now submit Document 1276-PS, Exhibit Number USA-525. The Prosecution have referred to this document. It is a consequence of Hitler's order dated 18 October 1942. According to this, parachutists and sabotage troops are to be exterminated, and Commandos to be surrendered to the SD. In a letter with the signature "Müller," dated 17 June 1944, addressed to the High Command, it says that such parachutists in British uniform were to be treated in accordance with Hitler's order. I am now asking you if you knew of this document signed by Müller, dated 17 June 1944, and if you had any knowledge at all of the matter contained in this document?

KALTENBRUNNER: I had no knowledge of the matter or of this document. But I should like to say the following in this connection: Later I received knowledge of this Hitler order and of his basic attitude to this question. I think it was at the Führer's headquarters in February 1945; and I have there, before witnesses, publicly stated that I was not only personally opposed to such treatment of soldiers and prisoners, but also that I would refuse to carry out any such order from Hitler. I think another defendant here is calling a witness by the name of Koller, and I request that you ask this witness, who was at that time the Chief of Staff of the Air Force, how I expressed it—I believe it was in Hitler's presence—what my attitude was regarding that question, which came to my knowledge for the first time in 1945. I can do no more than I did before this most powerful and almighty man Germany ever had, who declared, "He who does not obey my orders, no matter who the commander, will be shot." I can do no more than what I did say in his presence to the Chief of Staff of the Air Force and other officers: "I will not obey such an order."

DR. KAUFFMANN: I now come to Document 2990-PS, Exhibit Number USA-526. This is an affidavit from the witness Schellenberg. According to it, in 1944 a meeting took place between Kaltenbrunner and Müller. Kaltenbrunner is supposed to have stated that actions of the populations against terrorist fliers must not be interfered with; that, on the contrary, the hostile attitude of the population must be encouraged. I shall quote a few sentences from the examination of the witness Schellenberg on 3 January 1946, where he says:

"In 1944 on some other occasion during a conference I heard fragments of a conversation between Kaltenbrunner and Müller. The following remark by Kaltenbrunner remains clearly in my recollection: 'All departments of the Security Police and the Sipo must be informed that actions on the part of the population against British and American terrorists must not be interfered with; on the contrary, the hostile attitude of the population must be encouraged.'"

Do you know Schellenberg?

KALTENBRUNNER: Regarding Schellenberg I must say...

DR. KAUFFMANN: In a few sentences please.

KALTENBRUNNER: ... with reference to his credibility in the matter of this document, that he was a protégé of Heydrich's and when I took office he was in charge of...

THE PRESIDENT: He wants to know whether you know Schellenberg. That is a question you can answer.

The question was, "Do you know Schellenberg?" And he goes off into a long speech without answering the question.

DR. KAUFFMANN: Did you know Schellenberg? "Yes" or "no"?

KALTENBRUNNER: Yes, of course. He was the Chief of Department VI.

DR. KAUFFMANN: My question: What were the relations between you and the Chief of Department VI? Do you regard this statement as true or not?

KALTENBRUNNER: That statement is not true, and I should like to give you the reason so that the Tribunal can evaluate that statement. Schellenberg was Himmler's most intimate friend. By Himmler's order, he remained with him to the last day. He is the man who, on Himmler's behalf, established contact with the Swedish Count Bernadotte. He was the man who, at the very last minute, through M. Muehse in Switzerland, established a connection which was used to permit a very few Jewish prisoners to go to Switzerland, the purpose of which was to create quickly a favorable impression for Himmler and Schellenberg abroad. He is the man who, together with another friend of Himmler's, started an action to make an agreement with an organization of rabbis in the United States whereby they were to get him a favorable press in some of the larger newspapers in America. I have criticized Himmler for these tricks and complained and discredited them with Hitler, stating that it was demeaning to the cause and the Reich that in so important a matter these methods should be used by Himmler and Schellenberg. I said the only correct way would be to establish contact with the International Red Cross immediately. Consequently, I prejudiced Himmler before President Burckhardt, and forced him

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to adopt a different attitude in this question by asking Burckhardt personally to visit these camps.

DR. KAUFFMANN: But I put a completely different question.

KALTENBRUNNER: Yes, but I had to say this so that you can see how disappointed Schellenberg and Himmler were about what I was doing and why he, now, is interested in accusing me, as has been done in the affidavit, of breaking my word on international matters.

DR. KAUFFMANN: In other words, you want to say that Schellenberg was in opposition to you and against you, and is implicating you unjustly.

KALTENBRUNNER: Yes.

DR. KAUFFMANN: Now then, in this Schellenberg document the event with reference to these 50 fliers is mentioned; and Schellenberg states that you, together with Müller and Nebe, had a conference and that all of you were trying to find an excuse in order to keep the actual truth of these events from the public. I am asking you: When did you first hear of the shooting of these 50 fliers?

KALTENBRUNNER: That is the Case Sagan.

DR. KAUFFMANN: When did you hear of it? It is a simple question, please.

KALTENBRUNNER: The first time that case became known to me was about six weeks after it happened.

DR. KAUFFMANN: My next question: Do you want to say that you were not involved in the shooting in any way, that to the contrary you were only much later able to investigate the matter?

KALTENBRUNNER: Yes, that is what I want to say.

DR. KAUFFMANN: Do you also mean to say that the conference with Schellenberg dealt exclusively with the later attempt to conceal the truth of the matter?

KALTENBRUNNER: It can only have referred to that.

DR. KAUFFMANN: I am coming to Document 835-PS, Exhibit Number USA-527. This document also is held against the defendant by the Prosecution. It is the so-called Nacht und Nebel Decree, which is an order from Hitler dated 7 December 1941. Is the expression "Nacht und Nebel Decree" familiar to you? When did you hear of it for the first time?

KALTENBRUNNER: The first time I heard of it was in June 1945 in London.

*[A document was handed to the defendant.]*

DR. KAUFFMANN: This document which I have submitted to you is a letter from the OKW, dated 2 September 1944, addressed to

the German Armistice Commission. It is signed by Dr. Lehmann, and in it is stated:

"According to the decrees all non-German civilians in occupied territories who have endangered the security and preparedness of the occupying forces by means of terror or sabotage or in any other way are to be handed over to the Security Police and the SD."

In the case of so important a matter, it appears improbable that the matter and the Nacht und Nebel Decree were not known to you.

KALTENBRUNNER: I had no knowledge and I beg to be given permission to clarify the situation. May I first of all say that no document shows better proof than this of the fact that an executive function is wrongfully attributed to the SD. It says here on Line 4:

"...who have endangered...in any other way are to be handed over to the Security Police and the SD."

First of all, it is complete nonsense to state that one and the same thing should be handed over to two different authorities; either it is the Security Police or the SD.

This error in the use of the German language found its way into the Führer decree because Heydrich, as Chief of the Security Police and SD, was referred to in short as Chief of SD, but it is an absolute mistake. Whereby, God knows, I am not trying to exonerate the SD from other things which it may, perhaps, have committed, but I want to make it clear that it is wrong to conclude from this that it had executive powers.

DR. KAUFFMANN: Yes, but it is not only the question of the SD, but also of the Security Police.

KALTENBRUNNER: Yes, and to that I want to say the following: This Führer decree from the year 1941 was not known to me. I am asking you to put yourself in my position. At the beginning of 1943 I came to Berlin. With the exception of a few official visits I commenced my activity in May 1943. In the fourth year of the war the decrees and orders within the Reich and also in the executive sector reached the thousands and were accumulating on the desks and the cabinets of the civil servants. It was absolutely impossible for any man even to read them all within a year, and it was quite impossible for me to know of the existence of all these orders even had I considered it my duty to do so. But it was not my duty at all.

Then I am asking you to consider the following fact: The beginning of my activity was February 1943. On 2 February Stalingrad was surrendered and the largest military catastrophe...

THE PRESIDENT: This is a long speech in answer to a question as to whether he had seen this letter. He says he did not see the letter. Then he makes this long speech.

DR. KAUFFMANN: I am now putting this question to you: When did you realize what significance this Nacht und Nebel Decree had and what it meant regarding the treatment of persons it affected? Please give a precise answer.

KALTENBRUNNER: Dr. Kauffmann, the existence of the decree was unknown to me. Had I known that this matter would be held against me here, then I would have been able to nominate a witness in captivity in London who can prove that even in London I had no idea that it existed. We have talked about that in the cell.

DR. KAUFFMANN: The end result, therefore, is that you did not know?

KALTENBRUNNER: Yes, absolutely ignorant regarding that decree.

DR. KAUFFMANN: I now come to the Document 526-PS, Exhibit Number USA-502, which has been used by the Prosecution.

*[The document was handed to the defendant.]*

This refers to the landing of an enemy cutter in Norway on 30 March 1943. That report contains a sentence: "Führer order carried out by SD." The signature on that document is lacking. It is dated 10 May 1943. It is a secret command matter and the heading is "Note."

Please, will you make a statement regarding that sentence, "Führer order carried out by SD."

KALTENBRUNNER: The execution of such a Führer order is unknown to me. I want to point out that this note is obviously one made by a military department regarding an event which took place shortly after I had come into office but at a time before I had come to Berlin. I could not have had knowledge of it at all.

DR. KAUFFMANN: It says at the end of the document, "Armed Forces report dated 6 April 1943." It states further as follows: "In northern Norway an enemy ship carrying sabotage troops was forced to fight when approaching the coast and was destroyed."

Do you know anything about the connection of this Armed Forces report—as far as you knew of it at all—with the actual decree?

KALTENBRUNNER: No. Of course, I read, daily, practically every incoming Armed Forces report. But from its composition I am unable to determine any participation of any military agency within my sphere.



DR. KAUFFMANN: I now turn to the next document which has been held against the defendant by the Prosecution, Document L-37, Exhibit Number USA-506. This is the so-called "responsibility of relatives," that is to say, it refers to crimes committed against relatives of the guilty persons. This document refers to a letter from the commander of the Security Police to the SD at Radom, dated 19 July 1944, according to which male relatives of saboteurs are to be shot and female relatives to be sent to concentration camps.

What is your explanation to the Tribunal with reference to that document and the whole matter?

KALTENBRUNNER: The report commences with the words: "The Higher SS and Police Leader East has..." and so on and so forth, and then, "ordered" or "issued the following order."

The Higher Police Leader East is a department, which, as a department in an occupied territory, is directly under the jurisdiction of the Reichsführer SS and not under any central department in Berlin. Therefore I could not have had knowledge of that order. The police leaders in occupied territories were immediately subordinate to Himmler.

DR. KAUFFMANN: I now come to the next accusation of the Prosecution regarding the concentration camp at Dachau. A document exists which has the number Document 3462-PS, Exhibit Number USA-528. It is a statement by the Gaustabsamtsleiter Gerdes.

The Prosecution are accusing the defendant of contemplating the wiping out of the concentration camp at Dachau and its adjoining camps at Mühldorf and Landsberg by bombs or poison. I shall read a few sentences from that document. They are on Page 2 of the German text, near the end of the page:

"In December 1944 or January 1945 I was in the office of Gauleiter Giesler in Munich, Ludwig Street 28, and had the opportunity of learning about a secret order from Kaltenbrunner. Gauleiter Giesler received that order in my presence through a courier and, after I had been given permission to read it, it was destroyed in accordance with the remark on the document; 'To be destroyed after cognizance has been taken.' The order which was signed by Kaltenbrunner was worded roughly as follows:

"In agreement with the Reichsführer SS I have instructed all higher police departments that every German who participates in the future in the persecution and destruction of enemy fliers will remain unpunished."

"Giesler told me that Kaltenbrunner was in constant contact with him since he was considerably worried over the attitude

of foreign workers and particularly the inmates of the concentration camps at Dachau, Mühldorf, and Landsberg, which were in the path of the approaching Allied armies.

"On a Tuesday in the middle of April 1945 I had a telephone call from the Gauleiter ordering me to keep myself available for a night conference. In the course of our conversation that evening Gauleiter Giesler disclosed the fact to me that Obergruppenführer Kaltenbrunner had given him instructions, in accordance with an order from the Führer, that there should be made an immediate plan regarding the liquidation of the concentration camp at Dachau and the two Jewish work camps at Mühldorf and Landsberg. The instructions stated that these two Jewish work camps at Landsberg and Mühldorf were to be destroyed by the German Air Force, since the sites of those two camps had lately and repeatedly been affected by hostile bombing attacks. The action was given the camouflage name 'Cloud A-1.'"

KALTENBRUNNER: May I say something to that?

DR. KAUFFMANN: First, please, do you know Gerdes?

KALTENBRUNNER: I do not know Gerdes and I have never seen him.

DR. KAUFFMANN: Do you know Giesler?

KALTENBRUNNER: The last time I saw Giesler was in 1942, in September.

DR. KAUFFMANN: Was an order of Hitler in existence regarding the destruction of concentration camps?

KALTENBRUNNER: No.

DR. KAUFFMANN: Will you give a reasonable explanation regarding this document?

KALTENBRUNNER: To give a reasonable explanation for that document is almost humanly impossible, because from the beginning to the end it is an invention and a fake. I brand this document a complete and utter lie coming from Gerdes, and I can only refer you to the deposition supporting my statement by the Higher SS and Police Leader who was the sole competent authority in Bavaria, Freiherr Von Eberstein, who himself calls Gerdes' statement completely incredible. I would like to refute these accusations in detail as follows: He says:

"On a Tuesday in the middle of April 1945 I had a telephone call from the Gauleiter ordering me to keep myself available for a night conference."—He—"... disclosed... that Kaltenbrunner had given him instructions, in accordance with an order from the Führer..."—and so on.

Nobody in the Reich knew better than Hitler who was responsible for concentration camps and how he had to give an order. He would never have given me such an order and he could not have given it to me because I was, on Hitler's personal order, in Austria from 28 March until 15 April. As to the time from 10 April until 8 May, when I was captured, including the few days when I was in Berlin I can state exactly just where I have been and what I have done, so that the question of giving an order in this connection is impossible. And, anyway, it must have happened earlier, if the witness is talking about the middle of April, which would mean that I would have had to talk to Hitler about this before the middle of April, since otherwise he could not have been asked to be available for a night conference by the middle of April.

The existence of Jewish work camps in Bavaria as branches of Dachau, was completely unknown to me. And I am asking you to recognize the absurdity of my sponsoring in April of 1945 such an order, when I tried in March 1945 to start discussions with the President of the International Red Cross, Burckhardt, regarding the release and help to be given to all Jews, and when I made all efforts to have him personally look after the Jewish camps—in which I succeeded.

DR. KAUFFMANN: Did you have any possibility at all to exert influence on the German Air Force in this respect?

KALTENBRUNNER: I neither had the possibility of giving the Air Force orders—I could only have asked the Chief of the Air Force to give them and there, of course, it would have been turned down, because you must realize that at this point, when everyone knew that the war had come to an end, the Air Force would not have lent its hand to a terrible crime.

DR. KAUFFMANN: And now, with the permission of the Tribunal, and because it is a terrible accusation, I am quoting a few sentences from this document, because the Prosecution, too, have read these sentences into the record. The document goes on to say:

"I was aware that I would never carry this order out."—this is Gerdes talking—"Since the action 'Cloud A-1' was supposed to have been carried out already, couriers from Kaltenbrunner kept arriving, and I was supposed to have discussed the details of the Mühldorf and Landsberg action with the two district leaders concerned. The couriers, who in most cases were SS officers, mostly SS Untersturmführer, made me read and initial brief and sharp orders. I was threatened with severe punishment including execution in case of disobedience. I could always excuse the failure to carry out

the plan with bad weather for flying or with lack of petrol or lack of bombs.

"Therefore, Kaltenbrunner ordered that the Jews should be marched from Landsberg to Dachau, so that they should be included in the poisoning action which was going on in Dachau, whereas the action at Mühldorf was to be carried out by the Gestapo. For the Dachau Concentration Camp Kaltenbrunner ordered the action 'Cloud Fire,' which stipulated that the inmates of the concentration camps at Dachau, with the exception of the Aryan members of the Western Powers, were to be liquidated with poison.

"Gauleiter Giesler received that order directly from Kaltenbrunner and in my presence he discussed with the health officer of the Gau, Dr. Harrfield, the procurement of the necessary amount of poison. Dr. Harrfield promised that the necessary quantity, in accordance with the order, would be obtained, and he received instructions to wait my further orders. Since I wished to prevent this action from being carried out in any event, I gave no further instructions to Dr. Harrfield. The inmates of the camp at Landsberg had hardly arrived at Dachau when a courier from Kaltenbrunner brought the order for the action 'Cloud Fire' to be carried out. I prevented the execution of the two actions, 'Cloud A-1' and 'Cloud Fire' by telling Giesler that the front line was too near and to convey that reason to Kaltenbrunner.

"Kaltenbrunner gave written instructions to Dachau that all internees who were members of the Western European Powers were to be loaded on lorries and transported to Switzerland, whereas the remaining inmates were to be marched afoot into the Ötztal territory (Tyrol), where the final liquidation of the internees was to be carried out, in one way or the other."

Perhaps you can explain in a few words, without going into detail, whether or not this document contains the truth.

KALTENBRUNNER: This document is completely untrue.

DR. KAUFFMANN: It is completely untrue?

KALTENBRUNNER: But, Doctor, I must have an opportunity to define my views. I must be given an opportunity to clarify the details.

DR. KAUFFMANN: You have already defined your attitude. If you have to say anything important in addition to that, you can state it now.

KALTENBRUNNER: The following appears to be important to me: According to his statement, I must have had dozens of couriers during my stay in Austria. Two persons were in my company, my

driver and my administrative adjutant, his name was Scheitler, a man who had nothing to do with intelligence and police. There were three of us. I had not even the possibility of dispatching so many couriers.

Secondly, as far as Bavaria was concerned, there was no need for me to carry out any preparations, not even under pressure from Himmler. Why? Because, as far as Bavaria is concerned, plenipotentiary powers were given to Obergruppenführer Berger, the same day I was given plenipotentiary powers for Austria. So that there was no reason for me to take such action.

Thirdly, I could not even have carried such insane orders regarding a concentration camp in my heart when, at the same time, I was ordering exactly the opposite. I am thinking of Mauthausen. I had given an order to Mauthausen that the camp was to be completely handed over to the enemy. If you can put yourself in Himmler's place, then this would have been completely wrong, since the real criminals were in Mauthausen, whereas the people in Dachau had nothing or little against them. So that even if you thought as Himmler—that the exact opposite would have been necessary—from that point of view, too, it is completely insane to accuse me of any such action.

**DR. KAUFFMANN:** Finally, the Prosecution hold you responsible for the fact that you, as Chief of the Security Police and the SD, tolerated the persecution of the church, particularly the Catholic Church, by the Gestapo. I recall to you in this connection that the Department B-2 of Amt IV was concerned with education and confessional questions, and Department 1 of Amt IV with political Catholicism. Do you know anything regarding the fact that within that department there was a twofold policy regarding the churches with a so-called "immediate goal" and a "distant goal"? By "immediate goal" they meant that the churches would not be allowed to regain a single inch of ground; "distant goal" signified the final destruction of the churches in Germany at the end of the war. What do you know about these aims?

**KALTENBRUNNER:** All I can say to these theoretical statements is that they were completely unknown to me. The church policy of the Reich, as I had to recognize in 1943, was different. In 1943, to maintain Hitler's policy meant to achieve a covert truce with the churches, at least for the duration of the war; that is, to refrain as much as possible from attacks and to proceed only against individual misdemeanors by the clergy, if express authorization had been forthcoming.

**DR. KAUFFMANN:** May I interrupt you? I am asking you: Did you in the spring of 1943...

**KALTENBRUNNER:** Yes, I want to come to that.

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DR. KAUFFMANN: ... did you undertake anything with Hitler, and what was the result?

KALTENBRUNNER: Well, I just wanted again to give you a picture of the state of affairs which I found. In spite of Hitler's policy, I found that Bormann was actively continuing the fight against the churches. Therefore as early as March, I think, I wrote to Hitler, and later requested verbally a full clarification of the church policy. I asked him to alter it with a view to effecting a rapprochement. Above all I wanted to bring about a different policy toward the Vatican.

DR. KAUFFMANN: I do not think there is any need for you to go into too much detail.

KALTENBRUNNER: But I was blocked. First of all, Himmler opposed the idea to Hitler, and, secondly, I had the very strong resistance of Bormann against me. He even went so far as to undermine completely the reputation of the German representative to the Vatican, Weizsäcker, by sending a man to shadow him.

DR. KAUFFMANN: That is enough about that.

Mr. President, do you want me to go on, because it is now 5?

THE PRESIDENT: If you can finish in a short time, we would like you to go on. How long are you going to be?

DR. KAUFFMANN: I would say it would take me about another hour, since I must discuss those documents which have been submitted by the Prosecution.

THE PRESIDENT: Before we adjourn, I will say the Tribunal will sit on Saturday in open session until 1 o'clock.

*[The Tribunal adjourned until 12 April 1946 at 1000 hours.]*

# ONE HUNDRED AND SIXTH DAY

Friday, 12 April 1946

## *Morning Session*

*[The Defendant Kaltenbrunner resumed the stand.]*

DR. KAUFFMANN: Mr. President, yesterday the case of Sagan was dealt with by the defendant, but regarding his own participation he said only a few sentences. The Prosecution are assuming that he was an immediate participant even before the fliers had been shot. The two witnesses, Westhoff and Wielen, in my opinion, produced evidence in favor of the defendant, and I am now asking the Tribunal to tell me whether the defendant may have permission to speak in detail regarding the manner in which he was actively involved in the affair, or whether the Tribunal is satisfied with the treatment this problem has been given.

THE PRESIDENT: The Tribunal think that if the defendant has knowledge of the facts connected with it, he had better give them. He need not give them in any greater detail than is necessary, but in view of the evidence of the witness Wielen, I think he ought to deal with it.

DR. KAUFFMANN. *[To the defendant.]* You stated yesterday that you heard about the Case Sagan for the first time after the event had taken place. Do you maintain that position today?

KALTENBRUNNER: Yes.

DR. KAUFFMANN: In what manner did you become acquainted with the Case Sagan later on, and what did you do about it?

KALTENBRUNNER: I was never officially informed of Case Sagan, but roughly 6 weeks after this event I received knowledge of it. At the time these fliers escaped and at the time the orders were given—which in my opinion went this way: Hitler-Himmler-Müller-Nebe, or possibly Himmler-Fegelein-Nebe—I do not know, as at the time I was not present in Berlin but was in Hungary and, with a number of stops, finally finished up in a visit to Minister Speer in Dahlem. On 2 or 3 April I returned to Berlin. Up to that time, no one had informed me of it. The first time I heard of the affair was when the Foreign Office made complaints, or rather, demanded from Nebe and Müller that the case should be clarified so that they could answer a note which, I believe, had been sent to the Foreign Office by the protecting power.

The description of the witness General Westhoff is, in my opinion, misleading. I think he said something about mentioning the Case Sagan approximately 4 weeks after the shooting, during another conversation with me. I think that it was at least 6 weeks afterwards. It should be possible to ascertain when the Foreign Office made that inquiry. Then it would be possible to ascertain the exact date.

DR. KAUFFMANN: Later on, when you talked to Müller and Nebe, what was devised as a camouflage for this matter and what was thought of?

KALTENBRUNNER: No camouflage was devised nor discussed in our office, but when Müller and Nebe said that they would have to reply to the Foreign Office's inquiry and in that connection informed me of that dreadful order for the first time, I asked them who had given that order and they replied, "Himmler." I told them that they ought to get in touch with this superior immediately and ask him how the case should be dealt with further. I refused to have any connection with that matter. It had been unknown to me up to that time, and I considered it a dirty affair.

DR. KAUFFMANN: But was it not mentioned in that connection that it would be said that the fliers had lost their lives through bombs or that they had been shot while trying to escape? What do you know in that respect? The witness Schellenberg has stated that there were such conversations.

KALTENBRUNNER: Such words may have been said, yes. It has been described here how the large-scale searches were handled; and in connection with these manhunts, there were shootings. Even Germans were shot in that connection. An SS Oberführer in Alsatian territory was shot when he did not answer a stop signal at a road block which had been erected in the course of this search. Two or three of the fliers were killed by bombs, as I was told. I think that was along the Baltic coast in Kiel or Stettin, and I understand that two Criminal Police officials also lost their lives in this accident. Their widows received pensions subsequently. That is something that ought to be ascertainable. In this connection bombing and losses through bombing were certainly mentioned, but a camouflage of the whole affair was not discussed in our office; in any case the answer was prepared by Müller, Nebe, and Himmler, in Himmler's headquarters. I know that immediately after the inquiry from the Foreign Office these two left by air for Himmler's headquarters.

DR. KAUFFMANN: Are you trying to say then that the statement according to which these fliers had lost their lives by bombs, or had been shot while escaping, did not originate from you?



**KALTENBRUNNER:** No, certainly not; it did not originate from me.

**DR. KAUFFMANN:** With reference to the church policy of Department IV, the Prosecution are charging you with the following: So-called Bibelforscher, or International Bible Students, had often been sentenced to death on the strength of their inner convictions, only because they refused to serve in the war in any way. My question to you is this: Do you know of this state of affairs, and in what manner did you participate in that matter?

**KALTENBRUNNER:** German jurisdiction used as a basis for proceedings against this sect of International Bible Students was the law for the Protection of the Defense of the German Nation. Under this law any one who was interfering with German defense strength by refusing to serve in the forces could be penalized with detention or death. According to this law, military as well as civilian courts pronounced even the death sentence also against these International Bible Students. Death sentences, of course, were not pronounced by the Secret State Police.

In this connection it was often spoken of as an unjust harshness against the attitude dictated to these sectarians by their creed. I approached the Party Chancellery as well as the Ministry of Justice and Himmler and Hitler during my reports, and pointed out these facts to them; during several conferences with Thierack I demanded that this kind of jurisdiction should be discontinued. As a result two things were done. On the occasion of the first conference, after Thierack had made an inquiry at the office of Bormann and Hitler whom he evidently did not see personally, a directive was at once issued to the Public Prosecutors' offices stating that sentences which had already been pronounced were to be stayed.

During a further conference another step was taken, which was that the public prosecutors in general were given instructions not to demand the death sentence any longer.

The third step was that International Bible Students were no longer brought before the court.

I consider it a definite success of my personal intervention with Thierack—which later had been discussed with Hitler himself—that this jurisdiction against these sects was completely abolished.

**DR. KAUFFMANN:** I am now submitting a Document 1063 . . .

**KALTENBRUNNER:** May I supplement my statement by saying the following: These developments and this alteration of German law became also known abroad at that time. I remember quite well that a very well-known Swedish medical man thanked me personally and stated that this deed had been well received in Sweden.

THE PRESIDENT: This really is an unnecessary detail about what happened with some Swedish person outside of Germany, as to what they thought of his actions.

DR. KAUFFMANN: Yes.

I am now coming to Document 1063(d)-PS, Exhibit Number USA-219. This is a directive from the Chief of the Security Police and SD, dated 17 December 1942. It is a secret letter, and it is addressed to all commanders of the Security Police and SD; and it goes for information to Pohl, to the Higher SS and Police Leaders, and the inspectors of concentration camps. It is a directive according to which at least 35,000 persons capable of work are to be transferred to concentration camps by the end of January 1943 at the latest. The letter is signed by Müller.

I am asking you, do you know of this letter, or do you know of any such affair at all?

KALTENBRUNNER: I neither know the letter, nor do I know about the affair.

THE PRESIDENT: Will you give us the number again?

DR. KAUFFMANN: Document 1063(d)-PS, Exhibit USA-219.

KALTENBRUNNER: From the date of the letter, it becomes apparent that this was written before I came into office. It was not made known to me afterwards either. The signature is "Müller," who acted on Himmler's behalf, as is shown from Line 2. It is a typical case, which proves how unlimited Müller's authority was and the extent to which he enjoyed confidence, if he could issue a decree like this.

I gather from the whole content of this letter—it refers to a day at the end of January 1943—that it is impossible that this affair had been reported to me.

DR. KAUFFMANN: The Prosecution hold you responsible in the following connection: There was an agreement between the former Minister of Justice Thierack and Himmler, dated 18 September 1942, according to which Jews, Poles, and so forth, were to be subjected to penal police proceedings instead of being dealt with by ordinary law courts. I ask you: Did you know of this agreement; and, if so, what attempt did you make so as to reinstate ordinary law proceedings so far as that was possible?

KALTENBRUNNER: Such an agreement between Thierack and Himmler is not known to me. As you said, it was made in the autumn of 1942, I believe. But repeatedly, again and again, I worked towards the end and submitted proposals that all police courts should be done away with in favor of proper law proceedings. I am legally trained, and for that reason I have more respect for the

courts than Himmler. This was one of the main reasons why we never understood each other, and it was one of the main reasons for differences which cropped up even during our first discussions in 1942 at Berchtesgaden.

I cannot understand Thierack either, his making such an agreement with Himmler, because later on, as I know myself, he repeatedly spoke against the police court system.

DR. KAUFFMANN: I now come to the question of whether you had knowledge of the destruction of the Warsaw Ghetto, which was carried out in 1943. A report is available on this from the SS and Police Leader in Warsaw, whose name was Stroop. The report is addressed to the General of the Police Krüger, and refers to the so-called solution of the Jewish question in Galicia.

Now I ask you: When did you hear of this solution of the Jewish problem in Galicia, and did you exhaust every possibility so as to possibly prevent that solution?

KALTENBRUNNER: First of all, in this connection, I must state that I perhaps did not know enough about the tremendous instrument of power which Himmler had created by putting under his direct command the Higher SS and Police Leaders, in the occupied territories. For SS and Police Leaders, Stroop in this case, were subordinated to the Higher SS and Police Leaders—in this connection for instance, General Krüger in the Government General. No department in the Reich was informed of or participated in any action, neither before nor afterwards, which was ordered by Himmler through Krüger to Stroop. Certainly, Berlin did not know anything of such an order in advance.

Afterwards—I cannot tell you how long afterwards—they wrote and talked regarding the Warsaw Ghetto both in this country and abroad. Most serious accusations were made in foreign countries.

Yesterday, I started to state here that in this connection I had delivered to Reichsführer Himmler the first file documents which I had in my possession on his measures and policies. I did that after reporting to the Führer in November 1943. On that occasion I certainly talked to him about Warsaw, too, since for one thing, he and his "final solution of the Jewish question" were being criticized abroad.

DR. KAUFFMANN: When was the date of that report in comparison to that action against the Jews in Galicia?

KALTENBRUNNER: I cannot remember when that action was. My reports, first to Hitler and a day later to Himmler, were in November 1943.

DR. KAUFFMANN: I now come to a document which has already been mentioned by the Prosecution, Document L-53, Exhibit Number

USA-291. The Prosecution hold the defendant, as Chief of the Security Police and SD, responsible for the cleansing—as it is put—at Security Police and SD camps and concentration camps. This document is a letter from the Commander of the Security Police and SD at Radom, dated 21 July 1944, according to which the Commander of the Security Police and SD in the Government General had ordered that all the prisons which are mentioned must be cleansed and that their inmates must be liquidated. Look at this document, sender and signature, and then make a statement in this connection particularly regarding the question of whether you knew of these events.

KALTENBRUNNER: I draw your attention to what I have just said. This channel of command falls into the jurisdiction of the Higher SS and Police Leader for an occupied territory. The channel for orders—Himmler, Higher SS and Police Leader, his expert, Commander-in-Chief and commander of the Security Police and SD—that channel has nothing whatever to do with the centralized channel of orders coming from Berlin.

DR. KAUFFMANN: In other words, you want to say that these Higher SS and Police Leaders were immediately subordinate to Himmler?

KALTENBRUNNER: Yes, indeed.

DR. KAUFFMANN: Do you also want to say that you as Chief of the RSHA had no possibility of interfering with orders and directives of such Higher SS and Police Leaders?

KALTENBRUNNER: It was out of the question for they were immediately subordinate to Himmler. There was no other way for opposing such men, as is quite obvious from the interrogation of the Defendant Frank. Repeatedly I have of course received information about wrongdoings and crimes committed through these channels of orders. For instance, Krüger in the Government General was most violently attacked by me. It was due to me, too, that Krüger was removed from his position in Kraków, a fact which must also be shown by Frank's diary.

DR. KAUFFMANN: I now turn to another document—Number 1573-PS, Exhibit USA-498. The Prosecution are holding the defendant as Chief of the RSHA responsible that, under alteration of existing methods, slave workers had been used in the armament industry. This document before us is a secret order, which once again is signed by Müller. It is addressed to all police service departments. The date is 18 June 1941. The order refers to measures against emigrants and civilian workers from Russian territories. It states that for the prevention of their unauthorized return and any interference on their part, the persons concerned will be arrested if

the occasion arises. Until further notice these people cannot change their place of residence unless they receive permission from the Security Police; and if they leave their place of work without this permission they will be arrested.

Were such events known to you?

KALTENBRUNNER: No. In this respect, too, I can only point out that this is an order from Müller which was given 1½ years before my appointment. Müller, receiving orders from Himmler directly and enjoying tremendous power and authority, saw no reason to inform me of this, even later on.

DR. KAUFFMANN: How can you explain it that Müller was in a position to exercise such power, and that even during your term of office, 1943-45, this state of affairs continued without your having the possibility of stopping the man? Therefore I now ask you: Was it generally known to you that Müller had this power? In this connection, will you tell the Tribunal what the size of Department IV of the Secret State Police was and how it might be explained that you were not informed about those hundreds or even thousands of orders and instructions?

KALTENBRUNNER: Müller was the Chief of the Secret State Police Department. I do not know when he was appointed, but I must assume that it must have been in 1933, 1934, or at the latest 1935. But much earlier, as I know today, he had the closest contact with Himmler and later with Heydrich. He came from the Bavarian Landespolizei, where Himmler met him. He had his personal confidence for at least 12 or 15 years. He participated in and carried out, with him, every action which in the domain of State Police Himmler ordered in his eagerness for power or in pursuance of his aims as Chief of the German Police. This confidence I might say was continually increased for 12 or 15 years and remained unshaken to the very last days of the war. Müller also remained in Berlin after he had the order to remain with Himmler. Himmler relied on him as his blind and trustworthy instrument.

THE PRESIDENT: Dr. Kauffmann, the question that you have put to him, or the questions which you put—you put several—he does not seem to be answering. The main question was whether he knew of these actions of Müller. He is giving us a long speech now about how much confidence Himmler had in Müller. He has not said anything else yet.

DR. KAUFFMANN: Mr. President, I think that this question particularly ought to be dealt with at some length, because what the Gestapo and Müller are being accused of, is what Kaltenbrunner is accused of as Chief of the Gestapo.

THE PRESIDENT: What I was pointing out to you was that you had asked him several questions in one, and the main part of the question was whether he knew that Müller had these powers and was exercising them.

DR. KAUFFMANN: Answer that question right now briefly and clearly.

KALTENBRUNNER: The relations between Himmler and Müller were so direct that there was no cause for him to give me any reports. I had no knowledge, and as early as December 1942 Himmler stated clearly that the chiefs of Departments IV and V were his immediate subordinates, as had been the case since Heydrich's death.

DR. KAUFFMANN: Now it is going to be put to you that, based on certain statements of witnesses and other evidence, it must be assumed that conferences of department chiefs must have taken place between you and Müller, and that it appears improbable that you were not aware in general of the things which Müller decreed. Is that accusation justified?

KALTENBRUNNER: It appears to be justified, but it is not. What is called a conference of department chiefs here, was a joint luncheon which was not taken every day but let us say three or four times a week, a joint luncheon of adjutants, department chiefs, and any guests who might have been in Berlin at the time. That personal atmosphere alone made it impossible that internal or rather secret events might have been discussed in front of all these people.

DR. KAUFFMANN: In 1943 and the following years, were you always in Berlin—or I think I had better say—were you mostly resident in Berlin? Or did your work as Chief of the intelligence service make it necessary for you to leave Berlin often?

KALTENBRUNNER: I was frequently absent from Berlin. I think I can say that half of all the working time was spent away from Berlin. I was constantly in Berlin only from the moment the headquarters were transferred there.

DR. KAUFFMANN: When was that?

KALTENBRUNNER: That was in the months of February and March 1945. I was not in Berlin even in April 1945 in two long periods from 28 March until 15 April, then from 19 April until the last day of the war. During the years 1943 and 1944 I did not come to Berlin until May 1943, because up to that time I had my own services in Vienna to reorganize so that they could be transferred to Berlin. I think only once during the first or second week in February 1943 did I stay in Berlin so as to pay visits, and from the middle of February 1943 to February 1945 I was away on trips for

at least half the time. I have covered more than 400,000 kilometers by plane and car in my duties.

DR. KAUFFMANN: What were your activities when you were absent from Berlin? Did you have no direct contact with Müller during that time?

KALTENBRUNNER: Certainly not with Müller. During all these journeys of mine in the entire Reich, I never entered one single service department of the Secret State Police. An exception is the Secret State Police office in Linz where my family was living for a short while and from where I could send teleprints to Berlin; taking advantage of the Local State Police office for purely technical reasons. I had no other teleprint facilities there.

DR. KAUFFMANN: I am now going to discuss an affair of which you are accused by the Prosecution. In a few words, these are the facts concerned: During the suppression of the revolt in Warsaw in 1944, inhabitants of the city of Warsaw were taken to concentration camps. The Prosecution put the figure at about 50,000 to 60,000. Further deportations are supposed to have ceased due to an intervention of the Defendant Frank with Himmler, you personally having been involved by the fact that Defendant Frank and his State Secretary, Bühler, had asked you to get these people out of the concentration camps and return them to their homes. To begin with, I ask you, did such a conference on that subject take place in your office?

KALTENBRUNNER: A conference between Bühler and myself took place. The subject was something quite different and I am asking you to let me state it clearly. The so-called uprising of Warsaw was quelled in a purely military action. I think that this fight took place under the command of the chief of the anti-partisan units, Von dem Bach-Zelewski. I do not know which fighting units he was commanding, but I must assume that there were mixed troop units of the Armed Forces and the Police. Any participation of my office in this purely military action is out of question from the start. What Himmler and the troop units did with the prisoners was naturally not reported to me. The reason why Bühler came to see me was quite a different one. Frank, I think, for 1<sup>1</sup>/<sub>2</sub> years or even longer, had been trying to get Hitler to employ a different policy in the Government General. Frank was in favor of increased autonomy for the Polish people. In October 1944, I think on the occasion of a Polish National holiday, Frank had been planning to announce the increase of their autonomy. Hitler's refusal, in which he was encouraged by Himmler, and also other factors, was apparent. Therefore he sent Bühler to me with the proposal that I should make suggestions through the information service to the same end, that is, the participation of the Poles in the district administration and in

the high positions of the Government. I promised Bühler both these things. He went on to say, "On this occasion Frank wants a generous amnesty to be pronounced in Poland and that includes the release of the prisoners from the Warsaw uprising. Can't you help us with that?" I asked him, "Where are those prisoners?" He replied, "Himmler has, at all events, sent them to prisoner-of-war concentration camps." My answer could only have been, "Then he must have employed them in any case in the armament industry and it will be hard to get them out from there, but I shall favor an amnesty." According to my knowledge that was the state of the case.

DR. KAUFFMANN: Would it have been possible for you to bring about a release by asserting your full influence?

KALTENBRUNNER: No, during the time I was in office, as I have repeatedly stated during interrogations before the Trial, I have received at least 1,000 individual applications for release and every single case was put before Himmler or sent to him—put before him mostly, since I put them in my report file and discussed them with Himmler during my periodical reports to him. In perhaps two-thirds of all the cases I was successful to the extent that he arranged a release. But to such an extent as Frank wanted to achieve from Himmler with the help of Bühler, I never had the possibility of making a decision or of bringing about a decision; that was entirely in Himmler's hands and was determined by the policy which he and Hitler agreed upon regarding Poland.

DR. KAUFFMANN: I now put before you a statement from the witness Schellenberg. On 3 January this witness stated before this Tribunal that the evacuation of the Buchenwald concentration camp had been ordered by Kaltenbrunner. "Kaltenbrunner," he said, "had stated yes, this is correct; this evacuation is due to a Führer order which had been confirmed to him, Kaltenbrunner, by the Führer." Can you give an explanation of this?

KALTENBRUNNER: The statement is quite definitely incorrect. It is incorrect by the mere fact that Hitler quite definitely never ordered an evacuation or a nonevacuation of concentration camps. Such an order could only originate from Himmler.

THE PRESIDENT: Was there an affidavit or did he give the evidence—Schellenberg?

DR. KAUFFMANN: It was a statement of a witness.

THE PRESIDENT: It was given in evidence, was it?

DR. KAUFFMANN: Yes, it is a statement of a witness on 3 January.

THE PRESIDENT: Yes.



DR. KAUFFMANN: But, then, who did actually give such an order?

KALTENBRUNNER: It could certainly have been an order only from Himmler himself. The channel of command is quite clear: Himmler, Pohl, Glücks, and the camp commandant. It is not impossible that Himmler may have given the order direct to the commandant of the camp. That I do not know.

DR. KAUFFMANN: I want to interpose a question. Did you gain knowledge of this order?

KALTENBRUNNER: No, I neither heard of it nor could these orders be in any way connected with me, since I had ordered exactly the contrary regarding Mauthausen. I shall explain later why, in the case of Mauthausen, I was able to give an order for the first and only time. It has to do with the powers given to me on 19 April 1945. Until then, I never had any possibility at all of giving any such order in the name of Himmler.

DR. KAUFFMANN: In the same connection I am mentioning the statement made 3 January by the witness Berger. I read one or two sentences:

"The commandant of Dachau"—says Berger—"or his deputy, telephoned about 12 o'clock and stated to me that he had received this order, that is, the order for the evacuation from Kaltenbrunner after he had been summoned by the Gauleiter of Munich, the Reich Commissioner."

I ask you: Do you know anything about the evacuation of Dachau?

KALTENBRUNNER: No. This statement of Berger must be doubted quite definitely because he was the man who had been given full authority by Himmler, concerning Bavaria and all the territory west of it. That was given to him the same day I received full power regarding Austria. Therefore it would be for me...

DR. KAUFFMANN: Did the concentration camp at Dachau come under Berger's sphere of power just mentioned by you, or did it come under your sphere of command?

KALTENBRUNNER: Since Dachau is near Munich in Bavaria, of course it was only Berger's sphere of command.

DR. KAUFFMANN: Was Dachau evacuated at all?

KALTENBRUNNER: I do not know; I have never been to Bavaria after 19 April.

DR. KAUFFMANN: The witness refers to the date 23 April 1945, or a little later, he says.

KALTENBRUNNER: Yes, I forgot about that.

DR. KAUFFMANN: Where were you at that time?

KALTENBRUNNER: On 19 April, at 3 o'clock in the morning, I left Berlin and went via Prague to Linz, my goal being Innsbruck where I wanted to meet Burckhardt's representative again. From that moment onwards, I no longer had any connection with Berlin nor did I ever set foot on Bavarian soil or give orders there. My sphere of duty stopped at the Austrian border.

DR. KAUFFMANN: How can you explain such a statement?

KALTENBRUNNER: The only way I can explain it is that this must be a mistake and if I am put face to face with Berger, I am completely convinced that it can be cleared up.

DR. KAUFFMANN: Could it have been an evacuation order bearing the signature of Himmler?

KALTENBRUNNER: Certainly; perfectly possible.

DR. KAUFFMANN: Among other things you have been accused by the Prosecution of having committed a crime against peace. Will you tell the Tribunal whether you did anything, and if so, what during your time of office, to bring the war to an end?

KALTENBRUNNER: I started my duty on 1 February 1943. The situation which I found in the Reich was such that on this day—to be more exact, 2 February 1943, with the case of Stalingrad—it was my conviction that the war was to be regarded as absolutely lost for Germany. The conditions which I found, coming from a completely different atmosphere, from Austria, only confirmed this point of view. I recall that I paid my inaugural visit to Under Secretary of State Luther in the Foreign Office—I think it was on 2 or 3 February. I talked to him from half past 11 in the morning until 2 o'clock in the afternoon, suspecting nothing. We were talking about foreign political intelligence tasks which we would have to carry out together. At 4 o'clock in the afternoon the same Under Secretary of State Luther was arrested by the Gestapo and taken to a concentration camp.

I do not think I can explain with a more drastic example the situation in which I was put and how such events...

THE PRESIDENT: What is this in answer to? What is the question it is in answer to?

DR. KAUFFMANN: You ought to come to the point a little more quickly. The question was what you did to bring the war to the quickest possible end?

KALTENBRUNNER: I could quote a lot of factors in this connection. My first effort was in the spring of 1943; I think it was even in February 1943, when I favored a considerable alteration of

the church politics in order to win the Vatican for the first peace mediations. That was my first effort in that direction.

DR. KAUFFMANN: I now mention the name Dulles. Did you have direct or indirect contact with him and what was the purpose of your taking up those connections?

KALTENBRUNNER: Yes, I was in contact with him, namely, through Höttl. Since May 1943, I won over step by step, Höttl and other Austrians who were politically in the opposition, and learned of their peace feelers directed to foreign countries. Through these channels I heard of Roosevelt's representative for central Europe. I think he was his economics expert, a Mr. Dulles, who was reported as being in Switzerland.

DR. KAUFFMANN: I want to interpose a question in that connection. What would have happened if Hitler or Himmler had heard of that attitude of yours?

KALTENBRUNNER: My order to Höttl and my knowledge of his activity was, if you interpret it strictly, high treason since the Führer's views were known to me at the time. They were that there should be no contact regarding peace and no discussions about peace. Hitler changed his opinion only on 15 April 1945 in a discussion with me in the presence of a certain Wolf.

DR. KAUFFMANN: In the course of this so-called peace policy which you have described, did a representative make journeys to Switzerland so as to make contact with the so-called Mr. Dulles?

KALTENBRUNNER: Yes, there was a large number of journeys, and indeed not only by Höttl but by several other persons. For instance, I point out a discussion which I had with a Count Potocki, whom I asked to get in touch with such circles and forward the same information to Anglo-American circles in Switzerland.

DR. KAUFFMANN: I think we can leave this subject. In my opinion you have related the essential parts.

KALTENBRUNNER: These were not the only attempts, there were numerous others.

DR. KAUFFMANN: I now come to your relations with the President of the Red Cross, Professor Burckhardt, and I ask you: Is it true that you had a conference with Professor Burckhardt in 1945 with the aim that camps—prisoner-of-war camps and concentration camps—should be opened to the Red Cross so that medical supplies could be taken into these camps?

KALTENBRUNNER: Yes, I tried for a long time to achieve this with Burckhardt. I was helped by the fact that he himself had asked for a meeting with Himmler. Himmler, however, did not get Hitler's permission for such a meeting because he was, at the time,

the Commander-in-Chief on the northern front of the Vistula River. A meeting with Burckhardt could have taken place only there at the front. I tried, therefore, to take it upon myself to arrange a meeting between Burckhardt and a responsible personality in the Reich. After a lot of ado and in spite of many difficulties I succeeded. A private meeting with Burckhardt was held on 12 March.

DR. KAUFFMANN: Did you come to an agreement, and within this agreement was any help really given and in what manner?

KALTENBRUNNER: Yes, considerable help was given. An agreement was reached, according to which all foreign civilian internees, with the help of the Red Cross, were to be taken from all camps in the Reich and released to their home countries. But in the first place, by granting Burckhardt's request during these discussions I achieved the aim that the leading departments of the Reich were involved to such an extent that they could no longer detach themselves from this agreement, and I think that was my greatest success with Burckhardt.

DR. KAUFFMANN: Is it true that to get about 3,000 French and Belgian civilian internees through the front line at that time, you got in touch with General Kesselring's headquarters?

KALTENBRUNNER: I sent a wireless message to the headquarters asking that as soon as the Americans and British would agree to this, it should also be allowed by the Germans that such internees go through the fighting lines.

DR. KAUFFMANN: That is enough.

THE PRESIDENT: Dr. Kauffmann, he said 12 March but he did not give the year.

DR. KAUFFMANN: I do not understand—Yes, 12 March.

THE PRESIDENT: What year?

DR. KAUFFMANN: 1945.

[Turning to the defendant.] What is the total number of people who, due to your intervention reached their homeland?

KALTENBRUNNER: You must differentiate here between two different periods: the first period before the private meeting on 12 March and the period after that.

DR. KAUFFMANN: In my opinion you can give me a brief answer to that question. The periods of time do not matter.

KALTENBRUNNER: At least 6,000 civilian internees coming from France and Belgium and all the Eastern European States including the Balkan States were included in these talks. At least 14,000 Jewish internees were handed over to the Red Cross in the

town of Gunskirchen for their immediate care. This applies to the whole camp of Theresienstadt.

DR. KAUFFMANN: And finally is it correct—please answer very briefly either in the affirmative or in the negative—that because of your intervention, a special liaison department with the Red Cross was installed at Konstanz for the purpose of facilitating and carrying out this program further.

KALTENBRUNNER: A liaison department with the Red Cross was established in Lindau and at Konstanz.

DR. KAUFFMANN: That is enough.

The Prosecution hold you responsible for a wireless message you are alleged to have sent to Fegelein in which it says:

“Please report to the Reichsführer SS and inform the Führer, that all measures regarding Jews, political and concentration camp prisoners in the Protectorate, have been carried out by me personally today.”

I ask you: Did you send such a wireless?

KALTENBRUNNER: It did not get sent because the technical connection was not re-established.

THE PRESIDENT: What is the number?

DR. KAUFFMANN: Mr. President, I did not mention a number. It was not presented in court but it is contained in the trial brief on Page 14.

THE PRESIDENT: I think it is Document 2519-PS. It was presented to the Court.

KALTENBRUNNER: The wireless message was planned—the text probably was written by the adjutant who was accompanying me. I did not write it personally and as I say, it could not be sent.

On 19 April 1945 I had been given authority to act independently in accordance with the discussions with Burckhardt with reference to foreign civilian internees and regarding the entering of all camps by the Red Cross. On that occasion I stated in Hitler's and Himmler's presence that my route would be via Prague and Linz to Innsbruck and that I would pass by Theresienstadt. I said that there were not only Jewish prisoners there who were to be looked after by the Red Cross but also Czechoslovak political prisoners. I suggested that their release should also be carried out. That is the explanation for that wireless message. But not until 19 April at 6 o'clock in the evening was I given full power in this connection.

DR. KAUFFMANN: But the Prosecution might assume from that statement, and at first, rightly so, that you might also have had jurisdiction over concentration camp questions. I ask you—and please answer this question with “yes” or “no.” Is it true that the powers

you have mentioned as given to you on 19 April 1945 were the first powers in that sphere altogether?

KALTENBRUNNER: Yes. I would not have needed a renewed authority at all if I had had it up to that time.

DR. KAUFFMANN: In a speech Himmler made on 3 October 1943 at Posen before the Higher SS and Police Leaders, you are called Heydrich's successor. The Prosecution consider that this is a confirmation of the entire executive power and your extraordinary powers in this sphere.

Does this formal expression, which was certainly used in this connection, do justice to the situation or not?

KALTENBRUNNER: No, I protest strongly—I have done so during all the interrogations—against being called Heydrich's successor. If in my absence Himmler referred to me as such, or if earlier such a notice or announcement coming from him was once published in the press then this was done without my knowledge and without my wish. The first time, in connection with that press notice, there was a violent reaction to Himmler on my part. The day which you mentioned here I was ill in Berlin with an inflammation of the veins and in plaster, and therefore I did not join this discussion.

Neither the extent of my power nor outward appearance permitted the slightest possibility of comparison with Heydrich. I want to say quite briefly now that to the very last day of my activity I was paid 1,820 Reichsmark, which is the salary of a general of the police, and that Heydrich's income from his office was more than 30,000 Reichsmark, not because he was paid for a higher rank but in recognition of his completely different position. Any comparison is completely unjust.

DR. KAUFFMANN: Now, my next question: Is it correct that Himmler feared Heydrich and this was because Heydrich had been given too much authority from his point of view, and that for that reason he thought that by appointing you he had found the very man who would be completely safe for him, Himmler? In this connection the Prosecution have drawn a parallel between you and Heydrich, and, as I have already just said, they have described you as the second Heydrich.

KALTENBRUNNER: The relationship between Himmler and Heydrich can be characterized shortly as follows: Heydrich was by far the more intelligent of the two. He was at first an unusually docile and obedient...

THE PRESIDENT: Dr. Kauffmann, we do not want to know anything about Heydrich's intelligence. The witness has said over and over again that he was not his successor.

DR. KAUFFMANN: In that case I will repeat the question which I put earlier, and which is the following: Did Himmler, by calling on you, want a man who was completely safe for him, Himmler?

KALTENBRUNNER: He never again wanted to give away such executive power out of his own hands to the extent that Heydrich had it. The moment Heydrich was dead, Himmler took over the entire department and after that never let the executive powers out of his hands. He had once had the experience, in the person of Heydrich, of how dangerous a Chief of the Security Police could become to him. He did not want to run that risk a second time.

DR. KAUFFMANN: In other words, what you want to say, finally, is that after Heydrich died, Himmler wanted to and did retain the whole executive power in his hands?

KALTENBRUNNER: Yes.

DR. KAUFFMANN: Now, another question. You stated yesterday that you learned of the conception of the so-called "final solution" only later on. In effect, such instructions went from Himmler to Heydrich and to Eichmann as early as 1941 or 1942. Is it true that you frequently met Himmler? Were you a friend of Himmler's?

KALTENBRUNNER: It is utterly wrong to call the relation between Himmler and myself friendly. Just like every other official, I was treated by him in an extremely cool and reserved manner. He was not a man who could enter into personal relationship with anyone.

DR. KAUFFMANN: It is natural to assume, if I place myself in the position of the Prosecution, that you must have had knowledge of the "final solution" and of that idea, if you met Himmler frequently. I therefore ask you again: Did not Himmler at some time put to you clearly what this "final solution" was?

KALTENBRUNNER: No, not in this form. I said yesterday that on the basis of all information which accumulated during the summer and autumn of 1943, including reports from enemy broadcasts and foreign news, I came to the conviction that the statement regarding the destruction of Jews was true, and that, thus convinced, I immediately went to see Hitler, and the next day Himmler, and complained to both of them saying that I could not for one single minute support any such action. Beginning with that moment...

DR. KAUFFMANN: Yes, well, you said so yesterday. You need not repeat it again.

THE PRESIDENT: Dr. Kauffmann, he told us that before and you told us that you would finish in an hour; you have now been nearly an hour and a half.

DR. KAUFFMANN: I have only two or three questions.

[Turning to the defendant.] The trial brief of the Prosecution contains a statement of Schellenberg, and it runs as follows: "What am I going to do with Kaltenbrunner? He would have me completely under his thumb in that case."

This is stated by Schellenberg in an affidavit, and it is supposed to have been said by Himmler. Please, will you give a very brief statement regarding the fact whether you would consider such a statement by Himmler at all probable?

KALTENBRUNNER: I do not consider such a statement probable. If he did say it, then it can have been only in connection with...

THE PRESIDENT: The Tribunal does not think that is a possible question to put to the witness.

DR. KAUFFMANN: [To the defendant.] In the trial brief a document of this kind has been presented and charged against you but, if the President does not wish that question, I shall be glad to withdraw it.

THE PRESIDENT: It seems to be merely a matter of argument, and you cannot criticize this affidavit, if the affidavit is in evidence.

DR. KAUFFMANN: I now come to the last question. I ask you whether the possibility existed that you, after you gradually became aware of conditions within the Gestapo and concentration camps, *et cetera*, could have brought about a change? If that possibility did exist, can you say that by staying on in your position you achieved any alleviation in this sphere and an improvement of conditions?

KALTENBRUNNER: I repeatedly asked to join troops at the front, but the most burning question which I personally had to decide was: Will conditions be thus improved, alleviated? Or will anything be changed? Or is it my personal duty in this position to do everything necessary to change all these sharply criticized conditions?

Upon repeated refusals to my request to be detailed to the front, I had no other alternative than to try myself to alter a system, the ideological and legal basis of which could not be altered by me, as had been proved by all the orders issued before my time and offered in evidence here. All that I could do was to try to modify these methods while striving to have them abolished altogether.

DR. KAUFFMANN: Did your conscience permit you to remain in office in spite of it?

KALTENBRUNNER: When I considered the possibility of exerting again and again influence on Hitler and Himmler and other persons,



my conscience would not allow me to leave my position. I thought it my duty to take, personally, a stand against wrong.

DR. KAUFFMANN: Mr. President, I have no further question.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: Do any of the defendants' counsel wish to ask any questions of the defendant?

DR. DIX: Do you know, Witness, that Schacht, before he was taken into custody by the Allied Forces, had been in a concentration camp?

KALTENBRUNNER: Yes.

DR. DIX: How long have you known that?

KALTENBRUNNER: Since his wife wrote me a letter; and I believe that she requested me to present a petition so that she might get her husband out.

DR. DIX: And about when was that?

KALTENBRUNNER: I assume around Christmas 1944.

DR. DIX: Do you know or have you any idea at whose suggestion Schacht was interned in a concentration camp?

KALTENBRUNNER: I believe that on the very same day I sent this letter from Herr Schacht's wife by courier to the office of Hitler's adjutant, and I believe I received word through Fegelein or one of Hitler's adjutants, that Hitler was to be consulted in this matter. Some time later I learned that Schacht had been interned on Hitler's order, because he was suspected of working together with Goerdeler or in any case was one of the instigators of the high treason plan and of the assassination attempted on Hitler on 20 July 1944.

DR. DIX: I have a letter I received a short time ago, written by a former concentration camp inmate, who was told by Obersturmbannführer Stawitzky—Do you know him?

KALTENBRUNNER: No.

DR. DIX: He was the last commander of the concentration camp at Flossenbürg. In this letter I am told that this Stawitzky had told him that he had been ordered to murder Schacht along with the other special internees like Canaris, *et cetera*. Do you know anything about an order for the murder of Schacht?

KALTENBRUNNER: No.

DR. DIX: Do you consider it possible that Stawitzky might have decided on such a step through his own authority?

KALTENBRUNNER: No.

DR. DIX: If I interpret your answer correctly, such an instruction could have come only from the highest level, that is, either from Hitler or Himmler?

KALTENBRUNNER: Yes, you may assume that. As far as Schacht is concerned, it could only have been an order from Hitler himself.

DR. DIX: Thank you.

DR. RUDOLF MERKEL (Counsel for Gestapo): I have some questions to put to the witness.

Witness, the Indictment contends that the Secret State Police in the years 1943 to 1945 had about 40,000 to 50,000 members. What can you remember about this?

KALTENBRUNNER: I believe that this figure is slightly too high.

DR. MERKEL: What do you estimate the figure was?

KALTENBRUNNER: I would rather assume 35,000 to 40,000.

DR. MERKEL: Approximately how many Gestapo officials were active in the occupied countries?

KALTENBRUNNER: That I cannot tell you even approximately, but I believe I have heard a figure of 800 people, for example, for the occupied region in France.

DR. MERKEL: Do you know to whom these officials in the occupied countries were subordinate?

KALTENBRUNNER: In the occupied countries, to the commander of the Security Police, who in turn was subordinate to the Higher SS and Police Leader of the occupied territory.

DR. MERKEL: Do you know at all whether in the offices of the commanders of the Sipo and SD, Kripo officials, that is, officials of the Criminal Police, were carrying out tasks of a state political nature?

KALTENBRUNNER: That is possible.

DR. MERKEL: What approximately was the number of the Gestapo officials assigned in the East to the Einsatzgruppen A to G?

KALTENBRUNNER: I do not know.

DR. MERKEL: Can you tell me whether these officials, when assigned to the Einsatzgruppen, were released from the authority of the State Police and were acting as a special body in the Einsatzgruppen engaged in tasks with which the State Police themselves had no more to do?

KALTENBRUNNER: I believe one can assume that. Personnel affairs were still attended to, that is, their salaries were paid as usual, but the powers to issue orders, the authority to give orders was certainly different.

DR. MERKEL: Approximately how were the members of the State Police organized, that is, proportionally according to their functions? First, officials who had purely administrative functions?

KALTENBRUNNER: At least 20 percent.

DR. MERKEL: Officials with purely Security Police functions?

KALTENBRUNNER: The same number; for the greater part were in any case the subordinate personnel, that is, the technical personnel...

DR. MERKEL: This is what I intended to ask you.

The technical personnel, that is radio men, teletypists, drivers, and office personnel, how many were they altogether?

KALTENBRUNNER: The first group is 20 percent, that is the administrative group, and the so-called executive personnel is 20 percent, then the remaining 60 per cent fall into two equally large groups of 30 percent each, the technical auxiliary personnel and the office personnel.

DR. MERKEL: Tell me in one brief sentence the aims and tasks of the State Police.

KALTENBRUNNER: They have been explained here repeatedly. The State Police had for their main function, as in every other country, the protection of the State from any attack coming from within.

DR. MERKEL: The Prosecution contend that the membership in the State Police was voluntary. What can you say to that?

KALTENBRUNNER: I believe that contention can in no way be maintained nor proved. I would like to say that obviously the official staff in existence in 1933 could be made up only of officials who already had been police officials at that time.

DR. MERKEL: In what way did they come to the State Police?

KALTENBRUNNER: They were ordered.

DR. MERKEL: Ordered or transferred?

KALTENBRUNNER: There was a State Police in existence prior to that time; to be sure, they were not called the State Police at that time, but the Political Police Department.

DR. MERKEL: Then the personnel of the State Police was later on apparently completed, just like the personnel of every other State office, in conformity with the principles of the German Government Employees Law?

KALTENBRUNNER: Absolutely, yes.

DR. MERKEL: Did the Führer Decree Number 1 regarding secrecy apply to the service in the Reichssicherheitshauptamt? You certainly know it—that no one was to know more about a matter than absolutely necessary for his job? Did this rule also apply in the office of the Gestapo?

KALTENBRUNNER: This decree applied not only to the Wehrmacht but also to the entire internal executive power, for all administrative offices, and it was posted in every office throughout the Reich. So, of course, we were especially strict in observing this order in the Police.

DR. MERKEL: Do you know anything about the 1 October 1944 decree, according to which the entire Customs and Border Protection, which had been under the Reich Finance Office until that time, was transferred to Amt IV, that is, the Gestapo, of the RSHA?

KALTENBRUNNER: The Customs and Border Protection was transferred to Himmler and taken out of the sphere of the Reich Finance Ministry—I believe in September—by order of Hitler in the fall of 1944.

DR. MERKEL: Do you know about how much personnel was involved in that transfer?

KALTENBRUNNER: In the beginning the Customs and Border Protection comprised 50,000 people. At this time I think there must have been at least 10,000 people less, because recruiting by the Wehrmacht had taken place several times, that is, younger men were put into the fighting forces.

DR. MERKEL: Can you sum up in one sentence the function of the Customs and Border Protection?

KALTENBRUNNER: As the name implies, the Customs and Border Protection had to guarantee the financial sovereignty of the Reich through border security measures.

DR. MERKEL: Can one say at all that these estimated 40,000 officials joined the Gestapo voluntarily?

KALTENBRUNNER: No, by order.

DR. MERKEL: The Border Police (Grenzpolizei) is different from the Customs and Border Protection (Zollgrenzschutz). Do you know that as early as 1935 it already formed part of the State Police?

KALTENBRUNNER: Yes. Müller was General Border Inspector of the Reich.

DR. MERKEL: Sum up in one sentence the tasks of the Border Police.

KALTENBRUNNER: The Border Police checked passports at borders, airports, railways, highways. It was entrusted with the entire normal border control.

DR. MERKEL: Was this task different from what it was in the years before 1933; had anything changed?

KALTENBRUNNER: No.

DR. MERKEL: Did it vary from the tasks of the Border Police in other countries?

KALTENBRUNNER: No, that is not true.

DR. MERKEL: How were the relations between the members of the State Police, their officials and employees, and the SS; did they mostly enter the SS voluntarily or was it on the basis of an order?

KALTENBRUNNER: Voluntary enlistments must have been comparatively few. I know that later Himmler, as far as promotions were concerned, was more hesitant if the official did not belong to the SS, so for that reason enlistments occurred, if not from inner conviction, at least from a desire to be promoted.

DR. MERKEL: Thus, the larger part then joined because of this.

KALTENBRUNNER: Yes, it was based on Himmler's promotional system.

DR. MERKEL: Did the members of the State Police, particularly the officials, have any possibility of leaving their posts when they wanted to?

KALTENBRUNNER: No.

DR. MERKEL: A large part of the members of the State Police were so-called "Notdienstverpflichtete." Will you very briefly explain the term to the Tribunal?

KALTENBRUNNER: That is not true of those officials who had executive standing. As far as the other personnel were concerned there were more of that kind among them, especially as the war went along, because losses ran very high, as of course, in all branches of the Police and Wehrmacht. Thus towards the end, the personnel could be kept up only by recruiting Notdienstverpflichtete. That is true in any case of the technical and office personnel.

DR. MERKEL: Did those Notdienstverpflichtete join the State Police voluntarily?

KALTENBRUNNER: They had nothing to say in the matter. After consultations with the competent labor offices they were put into the Notdienst positions wherever the Reich ordered it.

DR. MERKEL: What happened to the members of the State Police who at interrogations committed excesses or trespassed on foreign property?

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KALTENBRUNNER: The same rules were followed which applied to all organizations subordinate to Himmler. They had their own SS and Police courts. In one sentence I may characterize this system by stating that the penalties were much more severe than in a civil court.

DR. MERKEL: A certain man has asserted that for an offense of taking away a few unimportant things from a prisoner, he had to serve a long period in the penitentiary. Was that the ordinarily normal and just punishment?

KALTENBRUNNER: Yes.

DR. MERKEL: Do you know who was taken to the SS Concentration Camp Danzig-Matzkau?

KALTENBRUNNER: Anyone who had been sentenced to imprisonment by SS and Police courts was put into the Danzig-Matzgau SS Concentration Camp, which was called an SS punishment camp rather than a concentration camp.

DR. MERKEL: Could a Gestapo member, especially of a higher rank, visit a concentration camp?

KALTENBRUNNER: Only with the express approval of Pohl or Glücks.

DR. MERKEL: Is that also true of the Higher SS and Police Leaders for the camps which were situated within their districts?

KALTENBRUNNER: I could not say that with certainty. In any case, I assume they also applied or had to apply to make these visits.

DR. MERKEL: Do you know of the so-called "severe interrogations?" Are these in force in other countries, too?

KALTENBRUNNER: I was President of the International Criminal Police Commission, and in this capacity I had the opportunity to speak about this topic at a meeting in the autumn of 1943. From this conference and also from my reading of the foreign press over a number of years I gathered that the police system of each state also makes use of rather severe measures of interrogation.

DR. MERKEL: Could a State Police official...

THE PRESIDENT: What happened at some international police commission does not seem to be relevant to anything in this case.

DR. MERKEL: I only wanted to question him as to whether these "severe interrogations" were applied not only in Germany but also in other states.

THE PRESIDENT: We are not concerned with that.

DR. MERKEL: However, the severe measures of interrogation are used as a charge in the trial brief against the State Police, Mr. President.

*[Turning to the defendant.]* Could a State Police officer, when executing a protective custody order of limited duration, consider corporal punishment or even the putting to death of the prisoner upon his commitment into the camp?

KALTENBRUNNER: Emphatically no when a custody of limited duration was concerned.

DR. MERKEL: Did a so-called proceedings for investigating the reasons for imprisonment apply also to the inmates of the concentration camps?

KALTENBRUNNER: Every case of protective custody underwent investigation; in time of war twice, in time of peace, of course, more often...

DR. MERKEL: One last problem...

KALTENBRUNNER: ...but this investigation was not just a matter of the State Police. It had to be made by the camp commander, who had to report on the behavior of the prisoner. This report had to be given by the camp commander to the Inspector of the Concentration Camps. Then the State Police had to decide on the matter.

DR. MERKEL: The Prosecution have put in evidence a considerable amount about ill-treatment and torture during the questionings which took place in occupied Western countries, especially France, Holland, Belgium, Norway. Were there any instructions from the RSHA in this connection to use torture?

KALTENBRUNNER: No, certainly not.

DR. MERKEL: How do you explain the fact of this ill-treatment?

KALTENBRUNNER: I have heard nothing about such ill-treatment with which the State Police is charged. In my opinion it concerns only excesses of individuals. A decree to that effect certainly was never issued.

DR. MERKEL: Do you know that in the occupied countries members of the resistance movement and also criminal elements masqueraded as members of the German State Police in order to facilitate their tasks?

KALTENBRUNNER: That has been repeatedly stated, but I also cannot remember in detail having seen any exact records about that.

DR. MERKEL: Thank you, Mr. President, I have no further questions.

DR. CARL HAENSEL (Counsel for the SS): Witness, in the year 1932 you joined the Austrian SS, according to your testimony.

KALTENBRUNNER: Yes.

DR. HAENSEL: Was there a difference between the Austrian SS and the German SS, or was it a similar group?

KALTENBRUNNER: There was a certain organizational similarity, which took effect only after the Anschluss. Up to the time of the Anschluss, the SS in Austria could hardly be differentiated from the Party or from the SA itself.

DR. HAENSEL: Sum up with a number the strength of the Austrian SS, to which you belonged; first of all, before the Austrian Anschluss in 1938 and then at the time when you joined. How did the development take place approximately, expressed in figures?

THE PRESIDENT: Too fast.

DR. HAENSEL: Did the development of the Austrian SS, to which you belonged, take place in 1938 as in 1932?

KALTENBRUNNER: I believe that at the time of the Austrian Anschluss, the maximum membership was perhaps 7,500.

DR. HAENSEL: Did that group play the role of a Fifth Column in Austria? Is "Fifth Column" a concept at all as far as you are concerned?

KALTENBRUNNER: Yes, "Fifth Column" became a concept to me through the statements of the enemy, but to term the Austrian SS a Fifth Column is entirely wrong. The Austrian SS never had the task of being an intelligence unit or a sabotage unit or anything like that.

DR. HAENSEL: Did there exist in the Austrian SS, to which you belonged, the slightest intention to bring through force the annexation of Austria to Germany or was this to be brought about through a plebiscite, through legal measures?

KALTENBRUNNER: There was by the SS neither such a plan of annexation by force nor do the facts of the political development comply with this. There was never any necessity for any such step, for the Anschluss Movement, without any such outside urge, was conclusively strong enough in itself.

DR. HAENSEL: It has been asserted that the SS Standarte 86—That must have been the one at Vienna . . .

KALTENBRUNNER: You are thinking of the Dollfuss Putsch?

DR. HAENSEL: Right. Can you tell me something about that? Did the work of this corps have any connection with the assassination of the Austrian Chancellor?

KALTENBRUNNER: I consider that incorrect. I must say that this corps later on did not have the number 86 but 89. In addition the group which had entered the Chancellery on 25 July 1934 was not a group of the SS, but a group of former members of the



Austrian Army who, because of National Socialist activity, had been discharged from the Army.

I do not know the matter in detail. However, the chief of the Austrian Police at that time, Dr. Skubl, who as far as I know is demanded here as a witness in another case, should be able to give you exact information about that. I ask that you question him about this matter.

DR. HAENSEL: Try to remember the entry of the troops on the night of 11 March 1938. What kind of troops marched in, according to your recollection? I ask: Were they SS units or were they other units? Were they Army units? Were there SS Verfügungstruppen? What is your recollection?

KALTENBRUNNER: My recollection is that, first of all, there were Wehrmacht units, the Luftwaffe of course, and there was one regiment of the Waffen-SS—I cannot recall which one, probably the Standarte Deutschland—participating in the entry.

DR. HAENSEL: Can you compare the size of the Wehrmacht and the Standarte Deutschland approximately?

KALTENBRUNNER: The Standarte Deutschland at that time had 2,800 men perhaps. So far as the Wehrmacht is concerned, I do not know how many units took part.

DR. HAENSEL: In order to establish the relationship and according to your idea, what is the entire number of SS men? I would like to make it a little easier for you. I have seen a communication in which it is stated that, in all and in the course of time, 750,000 to 1 million men have passed through the SS. Is such a figure correct?

KALTENBRUNNER: One million certainly is too high. All branches of the SS taken together, including the General SS and the Waffen-SS and including the SS members in the various police activities, I believe add up to 720,000 to 750,000 men. Out of that number at least 326,000 to 350,000 men died in action. These losses might even be a little higher than what I just stated, but I believe a more precise figure might be obtained from one of the defendants who belonged to the Wehrmacht. I do not know it exactly.

DR. HAENSEL: According to your knowledge how many men of this entire number do you believe were connected with concentration camps, that is, with the supervision, administration, and so forth? Can you give me any figure as to just how many were so connected?

KALTENBRUNNER: That is a rather surprising question to me, which I cannot answer immediately. I would have to have pencil and paper in order to make calculations.

DR. HAENSEL: Could you, through your own knowledge...

KALTENBRUNNER: Of course, it is only a fraction, a very small fraction of the entire figure.

DR. HAENSEL: Did those SS members, no matter how many or how few they were, who were not connected with the administration of concentration camps have any insight into these conditions or in this administration and the things that took place in the camps?

KALTENBRUNNER: Certainly not.

DR. HAENSEL: How can you tell me that with such certainty?

KALTENBRUNNER: From my own personal knowledge that Himmler and his organization kept the concentration camps behind an iron curtain.

DR. HAENSEL: Were the officials of the office which you headed, for example the Main Security Office, recruited only from the SS or mostly from the SS?

KALTENBRUNNER: No, not at all. The proportion of the SS members to those who did not belong to the SS was 5 percent if I consider only the confidence men and the staff of the SD inside Germany.

DR. HAENSEL: Therefore, for 100 officials, there were 5 who had gone through the SS?

KALTENBRUNNER: Yes.

DR. HAENSEL: According to your knowledge were there regulations prohibiting the physical ill-treatment of concentration camp inmates and were these regulations known in the SS?

KALTENBRUNNER: They were issued in print: that is, contained in nearly every gazette of the Reichsführer SS and the Chief of the German Police. Every SS man knew these regulations were laws, and they were punished heavily if ill-treatment was reported or became evident.

I do not know to what extent and in what state the SS Punishment Camp Danzig-Matzgau fell into the hands of the enemy, but I am convinced that all those who underwent a term of imprisonment there will give information about this severe punishment in connection with any ill-treatment which may have occurred.

DR. HAENSEL: I have finished, Your Honors.

THE PRESIDENT: Does the Prosecution wish to cross-examine?

COL. AMEN: Defendant, in order to shorten as much as possible the time of this cross-examination, I want to be sure that we understand each other as to just what your position is as to several specific items.

Now, first, you concede that you held the title of Chief of the RSHA and Chief of the Security Police and SD from the end of January 1943 up to and including the end of the war. Is that correct?

KALTENBRUNNER: Yes, it applies with those limitations which I enumerated yesterday with regard to my authority in the State and Criminal Police.

COL. AMEN: And when you speak of those limitations, you are referring to this supposed understanding with Himmler? Is that correct?

KALTENBRUNNER: It was not a supposed understanding with Himmler but a well-established fact which existed from the very first day, that I had the task of establishing a centralized intelligence service in the Reich and that he would retain command in the other sectors.

COL. AMEN: Well, in any event, you concede that you held that title, but you deny that you exercised some of the powers? Correct?

KALTENBRUNNER: Yes.

COL. AMEN: And this title which you held was the same title which was previously held by Heydrich, who had died on 4 June 1942? Is that correct?

KALTENBRUNNER: Yes.

COL. AMEN: There was no change in title?

KALTENBRUNNER: No.

COL. AMEN: And you testified that you assume responsibility for all of the things which you did personally or knew about personally. That is correct, is it not?

KALTENBRUNNER: Yes. I could add one thing, that my title was extended on 14 February 1944, when the Military Intelligence Service of the OKW, Amt Abwehr, was transferred to Himmler by Hitler. Then my title as Chief of the entire Reich Central Intelligence Service became known in other departments.

And I might add also, perhaps, that the capacity of a man or his duties in an intelligence service which not only comprised a big country like the Reich but also extended to foreign countries were not made public. I might refer to England, where the Chief of the Secret Service over other...

COL. AMEN: Defendant, will you please try to confine yourself to answering my questions "yes" or "no" whenever possible, and making only a brief explanation, because we will come to all these other things in due time. Will you try to do that?

KALTENBRUNNER: Yes, very well.

COL. AMEN: Did you have any personal knowledge or anything personal to do with any of the atrocities which occurred in concentration camps during the war?

KALTENBRUNNER: No.

COL. AMEN: And therefore you assume no responsibility before this Tribunal for any such atrocities? Is that correct?

KALTENBRUNNER: No, I do not assume any responsibility in that regard.

COL. AMEN: And, in that connection, such testimony as has been given here, by Höllriegel for example, to the effect that you witnessed executions at Mauthausen, you deny? Is that correct?

KALTENBRUNNER: I was already told yesterday of the testimony of Höllriegel. I consider the statement that I ever saw a gas chamber, either in operation or at any other time, wrong and incorrect.

COL. AMEN: Very good. You had no personal knowledge of and did nothing personal about the program for the extermination of Jews; is that correct—except to oppose them?

KALTENBRUNNER: No—except that I was against it. From the moment I knew of this as facts and had convinced myself of it, I raised objections with Hitler and Himmler, and the final result was that they were stopped.

COL. AMEN: And therefore you assume no responsibility for anything done in connection with the program for the extermination of the Jews, right?

KALTENBRUNNER: Yes.

COL. AMEN: And does the same thing apply to the program for forced labor?

KALTENBRUNNER: Yes.

COL. AMEN: And the same thing applies, does it not, to the razing of the Warsaw Ghetto?

KALTENBRUNNER: Yes.

COL. AMEN: And the same thing applies to the execution of 50 fliers in connection with Stalag Luft III?

KALTENBRUNNER: Yes.

COL. AMEN: And the same thing applies to the various orders with respect to the killing of enemy fliers, correct?

KALTENBRUNNER: Yes.

COL. AMEN: And, as a matters of fact, you made all these same denials in the course of your interrogations before this Trial, correct?

KALTENBRUNNER: Yes.

COL. AMEN: And you still make them today?

KALTENBRUNNER: Yes. But as far as the preliminary interrogations are concerned, may I make a statement again in the course of the cross-examination?

COL. AMEN: Well, when we come to the proper place let us know.

Is it or is it not a fact that the Gestapo, Amt IV, RSHA, prepared reports on concentration camps which were submitted to you for signature and then passed on to Himmler?

KALTENBRUNNER: No. I do not recall any such reports. The normal channel was that Müller reported to Himmler directly.

COL. AMEN: Do you likewise deny . . .

KALTENBRUNNER: I would like to add that of course certain matters existed of which I had to be informed for several reasons, for instance the great domestic political event, the plot of 20 July 1944 of course; I was informed in such cases, not through Amt IV but through . . .

COL. AMEN: I am speaking of the general course of activity and not of any special exceptions, you understand.

KALTENBRUNNER: Yes.

COL. AMEN: You likewise deny that Müller, as chief of Amt IV, always conferred with you with respect to any important documents?

KALTENBRUNNER: Yes. I not only deny it but the facts speak against it. He had direct authority from Himmler. He had no reason to discuss this matter with me beforehand.

COL. AMEN: I ask that the defendant be shown a document, L-50, which will become Exhibit Number USA-793.

*[The document was submitted to the defendant.]*

THE PRESIDENT: Hasn't this been put in before?

COL. AMEN: No, Your Lordship, I am told it has not.

*[Turning to the defendant.]* By the way, were you acquainted with Kurt Lindow, who makes this affidavit dated 2 August 1945?

KALTENBRUNNER: No.

COL. AMEN: Although he was an official in the RSHA until 1944? Let us read together Paragraphs 2 and 4 only. I won't take the time of the Tribunal to read Paragraphs 1 and 3. 2, you will note, reads as follows:

"On the basis of general experience as well as individual cases I can confirm that the Gestapo (Amt IV) wrote reports

about practices of the administrative authorities in the concentration camps and that these were given by the Chief of Amt IV to the Chief of the Security Police who submitted them for signature to Reichsführer Himmler."

KALTENBRUNNER: May I reply to that immediately? It might be important perhaps to read Paragraph 1, too.

COL. AMEN: Please make it as brief as you can.

KALTENBRUNNER: Paragraph 1 seems to be important to read, for in Paragraph 1 it is said that the witness Lindow, from 1938 until 1940, was in the section in which such reports were written. From 1940 to 1941 he was in counterespionage; in 1942 and 1943 he was in the section for combating of Communism; and later he was in the section for educational matters. I believe, therefore, that his testimony in Paragraph 2—that he knew of the custom of the State Police, that is that via the Chief of Department IV, through the Chief of the Security Police, reports were sent to Himmler about happenings in concentration camps—holds true only for the period 1938 to 1940. Judging from his own testimony, he has no personal experience about the later periods.

COL. AMEN: Well, in other words he is not telling the truth as it was at the time when you were active in RSHA; correct?

KALTENBRUNNER: I have not read anything about that. He maintains that...

COL. AMEN: I am calling your attention to two paragraphs. We have already covered 2, and now we will read 4:

"To my knowledge no chief of office or any of the officials of the RSHA authorized to sign had the right to sign in any fundamental affairs of particular political significance without consent of the Chief of the Security Police, not even during his temporary absence. From my own experience I can furthermore declare that particularly the Chief of Office IV, Müller, was very cautious in signing documents concerning questions of a general nature of possibly greater importance, and that he put aside documents of such nature in most cases for the return of the Chief of the Security Police, whereby, alas, often much time was lost."—Signed—"Kurt Lindow."

KALTENBRUNNER: Yes. I would like to make two statements: First, this assertion is completely contrary to the testimony of several witnesses who spoke of the extraordinary authority and independence exercised by Müller and testified to it.

Secondly, the description of Lindow is applicable to that period of time in which Heydrich was active, that is, the time between 1938 and 1940, in which Lindow could obtain experience. But this

does not apply to the period in which Himmler gave direct orders to Müller. That was Himmler's prerogative, for my tasks were of such scope that it was almost impossible for one man to handle the work that I did.

COL. AMEN: I don't want to spend too much time on it now, Defendant, but the paragraphs which I read you conform to the testimony of Ohlendorf before this Tribunal, do they not?

KALTENBRUNNER: The testimony as given by Ohlendorf was shown to me yesterday by my counsel. But also the testimony as given by Ohlendorf, I believe, leads us clearly to see that any executive order, even for protective custody—and he used the term “down to the last washerwoman”—needed the direct consent of Himmler, who could delegate this authority only to Müller. He did add, however, that he did not know whether my authority suffered any such restrictions and whether, perhaps, I might not have had such powers, but he could not state that with certainty. And the rest of his testimony contradicts the assumption that I had such broad authority.

COL. AMEN: We all know what Ohlendorf's testimony was. I merely want to ask you if you accept the testimony of Ohlendorf. You told us in the course of interrogations that you had the most contact with Ohlendorf and that you would trust him to tell the truth before any of your other associates; is that not correct?

KALTENBRUNNER: I do not recall the last statement. The first statement, that he was one of my chief collaborators, is justified and is proved by the fact that he was chief of the Intelligence within Germany, which became a part of my Intelligence Service. All domestic political reports, reports about all German spheres of life, I received mostly from this Amt III, in addition to the news from the other departments which I organized myself.

COL. AMEN: Shortly after Easter 1934 you were under arrest in the Kaisersteinbruch Detention Camp?

KALTENBRUNNER: What year did you say, please?

COL. AMEN: 1934.

KALTENBRUNNER: Yes, from 14 January until the beginning of May.

COL. AMEN: Did you ever, in company with other SS functionaries, make an inspection of the Mauthausen Camp?

KALTENBRUNNER: With other SS officials, no. To my recollection I went there alone and had to report there to Himmler, who, as I stated yesterday, was conducting an inspection tour through southern Germany.

COL. AMEN: And you went only in the quarry? Right?

KALTENBRUNNER: Yes.

COL. AMEN: Were you acquainted with Karwinsky, the State Secretary in the Dollfuss and Schuschnigg Cabinets from September 1933 to October 1935—Karwinsky?

KALTENBRUNNER: I saw Karwinsky once. I believe he visited us in the Kaisersteinbruch Detention Camp at that time during our hunger strike. Otherwise I never saw him. It might be that one of his representatives visited us. That I cannot say.

COL. AMEN: I ask that the defendant be shown Document Number 3843-PS, which will be Exhibit Number USA-794. I would like to say to the Tribunal that there is rather objectionable language in this exhibit but I do feel that in view of the charges against the defendant, I do feel it is my duty to read it nonetheless.

*[The document was submitted to the defendant.]*

If you will turn to Page 3, defendant.

KALTENBRUNNER: On Page 3 there are just a few lines. May I read the entire document first, please?

COL. AMEN: It would take much too much time, Defendant. I am only interested in the paragraph which is on Page 3 of the English text, and commences, "Shortly after Easter..." Do you have it?

KALTENBRUNNER: Yes.

COL. AMEN: "Shortly after Easter 1934 I received the news that the prisoners in the Kaisersteinbruch Detention Camp had gone on hunger strike. Thereupon I went there myself, in order to inform myself about the situation. While comparative calm and discipline prevailed in most of the barracks, one barrack was very disorderly. I noticed that one tall man seemed to be the obvious leader of the resistance. This was Kaltenbrunner, at that time a candidate for attorney-at-law, who was under arrest because of his illegal activity in Upper Austria. While all the other barracks gave up their hunger strike after a talk which I had with representatives of the prisoners, the barracks under Kaltenbrunner persisted in the strike.

"I saw Kaltenbrunner again in the Mauthausen Camp, when I was severely ill and lying on rotten straw with several hundred other seriously ill persons, many of them dying. The prisoners, suffering from hunger oedemata and from the most serious intestinal sicknesses, were lying in unheated barracks in the dead of winter. The most primitive sanitary facilities



were lacking. The toilets and the washrooms were unusable for months. The severely ill persons had to relieve themselves in little marmalade buckets. The soiled straw was not renewed for weeks, so that a stinking liquid was formed, in which worms and maggots crawled around. There was no medical attendance or medicines. Conditions were such that 10 to 20 persons died every night. Kaltenbrunner walked through the barracks with a brilliant suite of high SS functionaries, saw everything, must have seen everything. We were under the illusion that these inhuman conditions would now be changed, but they apparently met with Kaltenbrunner's approval for nothing happened thereafter."

Is that true or false, Defendant?

KALTENBRUNNER: I can refute this document, evidently presented in order to surprise me, in every point.

COL. AMEN: I ask you—first, I ask you to state whether it is true or false?

KALTENBRUNNER: It is not true and I can refute each detail.

COL. AMEN: Make it as brief as possible.

KALTENBRUNNER: It is not possible to me to take less time in refuting it, Mr. Prosecutor, than you took in reading it. I have to refute each word which is incriminating me. Here Karwinsky maintains...

COL. AMEN: Just a moment. Perhaps you will wait until I have read to you two more exhibits I have along the same line. Then perhaps you can make your explanation of all three at the same time. Is that satisfactory to you?

KALTENBRUNNER: As you wish.

COL. AMEN: I ask that the defendant be shown Document Number 3845-PS, which will become Exhibit Number USA-795.

*[The document was handed to the defendant.]*

You have already denied, I believe, having visited or going through the crematorium at Mauthausen; correct?

KALTENBRUNNER: Yes.

COL. AMEN: Do you know Tiefenbacher, Albert Tiefenbacher?

KALTENBRUNNER: No.

COL. AMEN: If you have the document you will note that he was at Mauthausen Concentration Camp from 1938 until 1 May 1945 and that he was employed in the crematorium at Mauthausen for 3 years as carrier of dead bodies. You note that?

KALTENBRUNNER: Yes.

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COL. AMEN: Now, passing to the lower half of the first page, you will find the question:

"Do you remember Eigruber?"

"Answer: Eigruber and Kaltenbrunner were from Linz.

"Question: Did you ever see them in Mauthausen?"

"Answer: I saw Kaltenbrunner very often.

"Question: How many times?"

"Answer: He came from time to time and went through the crematorium.

"Question: About how many times?"

"Answer: Three or four times.

"Question: On any occasion when he came through, did you hear him say anything to anybody?"

"Answer: When Kaltenbrunner arrived most prisoners had to disappear. Only certain people were introduced to him."

Is that true or false?

KALTENBRUNNER: That is completely incorrect.

COL. AMEN: Now I will show you the third document and then you can make a brief explanation. I ask that the defendant be shown Document Number 3846-PS which will become Exhibit Number USA-796.

*[The document was handed to the defendant.]*

I might ask you, Witness, do you remember ever having witnessed a demonstration of three different kinds of executions at Mauthausen at the same time? Three different kinds of execution?

KALTENBRUNNER: No, that is not true.

COL. AMEN: Are you acquainted with Johann Kanduth who makes this affidavit?

KALTENBRUNNER: No.

COL. AMEN: You will note, from the affidavit, that he lived in Linz; that he was an inmate of the concentration camp at Mauthausen from 21 March 1939 until 5 May 1945; that besides the work in the kitchen he also worked in the crematorium from 9 May, and he worked the heating for the cremation of the bodies. Now, if you will turn to the second page, at the top:

"Question: Have you ever seen Kaltenbrunner at Mauthausen on a visit at any time?"

"Answer: Yes.

"Question: Do you remember when it was?"

"Answer: In 1942 and 1943.

"Question: Can you give it more exactly, maybe the month?"

"Answer: I do not know the date.

"Question: Do you remember only this one visit in the year 1942 or 1943?

"Answer: I remember that Kaltenbrunner was there three times.

"Question: What year?

"Answer: Between 1942 and 1943.

"Question: Tell us, in short, what did you think about these visits of Kaltenbrunner which you described? That is, what did you see, what did you do, and when did you see that he was or was not present at such executions?

"Answer: Kaltenbrunner was accompanied by Eigruber, Schulz, Ziereis, Bachmeyer, Streitwieser, and some other people. Kaltenbrunner went laughing into the gas chamber. Then the people were brought from the bunker to be executed, and then all three kinds of executions: hanging, shooting in the back of the neck and gassing, were demonstrated. After the dust had disappeared we had to take away the bodies.

"Question: When did you see the three different kinds of executions? Were these just demonstrations or regular executions?

"Answer: I do not know if they were regular executions, or just demonstrations. During these executions, besides Kaltenbrunner, the bunker leaders, Hauptscharführer Seidel and Duessen, were also present. The last named then led the people downstairs.

"Question: Do you know whether these executions were announced for this day or if they were just demonstrations or if the executions were staged just for pleasure of the visitors?

"Answer: Yes, these executions were announced for this day.

"Question: How do you know that they were set for this day? Did somebody tell you about these announced executions?

"Answer: Hauptscharführer Roth, the leader of the crematorium, always had me called to his room and said to me, 'Kaltenbrunner will come today and we have to prepare everything for the execution in his presence.' Then we were obliged to heat and to clean the stoves."

KALTENBRUNNER: May I answer?

COL. AMEN: Is that true or false, Defendant?

KALTENBRUNNER: Under my oath, I wish to state solemnly that not a single word of these statements is true. I might start with the first document.

COL. AMEN: Could you note, Defendant, that none of these affidavits were taken in Nuremberg, but that they all appeared to have been taken outside of Nuremberg in connection with an entirely different proceeding or investigation. Did you note that?

KALTENBRUNNER: No, but it is irrelevant as far as the testimony itself is concerned. May I now start to talk about this document?

COL. AMEN: Yes, go ahead.

KALTENBRUNNER: The Witness Karwinsky states having seen me in the year 1934 in connection with the hunger strike in the Kaisersteinbruch Detention Camp. He singles out the barracks in which disorders were taking place at which a tall man, meaning myself, was present. According to him, I was interned there because of my illegal activity in Austria. As far as these statements are concerned, up to now, they are completely wrong.

First of all, I was not interned there because of National Socialist activities. The note of imprisonment we had received in writing, which must have been known to Herr Karwinsky, who was then Austrian State Secretary for Security, stated literally that we were arrested to prevent us from performing National Socialist activities. So there was no prohibited activity at this time charged against me. Then, further, when Karwinsky came, the hunger strike was in its ninth day. We had not...

COL. AMEN: May I interrupt you just a moment, Defendant. I am perfectly satisfied if you testify that these statements are false. If you are satisfied, I am perfectly satisfied with that answer. I do not need an explanation of all of these paragraphs when we have no way of verifying what you say.

KALTENBRUNNER: Mr. Prosecutor, I cannot be satisfied if the High Tribunal and the whole world is presented with testimony and documents which are pages long and which you contend are the truth, and which incriminate me in the gravest manner. I must certainly have the opportunity to answer with more than "yes" or "no." I simply cannot just like some callous criminal only...

THE PRESIDENT: You'd better let him go on. We do not want to argue about it. Go on, make your comments on the document.

KALTENBRUNNER: Karwinsky arrived on the eighth day of the hunger strike. He did not come into our barracks, but we were brought on stretchers into the administrative building of this Austrian detention camp. None of us were even able to walk any more. And for this fact, there are a great many more witnesses—490 internees who had been confined in this camp with me. Karwinsky talked with us in this administration building and stated that if the hunger strike were to stop the Government would be willing to consider a dismissal of all internees. We had been interned without

having committed any offense at all, and prior to that the Government had already given their promise three times to release us but had never kept these promises.

Therefore, we requested a written statement from Karwinsky, either signed by him or signed by the Federal Chancellor. We wanted this statement so that we could believe the promise, then we would immediately end the strike. He refused. The hunger strike went on and we were taken to a hospital in Vienna. On the 11th day, the hunger strike stopped because even the giving of water was prohibited on that day. These were the facts, and not that we created disorder.

THE PRESIDENT: When I said you could make your comments, I did not mean you could go on giving the details of the hunger strike.

KALTENBRUNNER: My Lord, I just wanted to point out that what has been testified by the witness is incorrect—that I was the leader in the resistance and that I was still in my barracks. I had to be carried on a stretcher all through the camp; none of us could walk any more at that time.

Point 2; I talked with the cousin of Karwinsky again and again later on. His cousin was in charge of the social insurance department at Linz. He told me that his cousin, that is the witness mentioned here, never had been at Mauthausen, that he was at Dachau from the first day of his detention. There is a difference whether it is Mauthausen or Dachau, for he was sent there as a former member of the Austrian Government who had committed crimes against National Socialists. He was arrested by the RSHA, which already existed, I believe by Heydrich in Berlin, and not by some Austrian office. I also never saw this man afterwards. I also never visited Dachau. It should, therefore, be easy to ascertain whether this man was in Dachau from the beginning of his detention or in Mauthausen. If he was in Dachau, as I am charging, then everything is a lie. If he were in Mauthausen, it must be first proved whether he does not confuse me with another man. This first proof, whether he has erred in the person, is not up to me. If the Prosecution endeavor to find out whether he was in Dachau from the very beginning—for I know he was in Dachau; he was arrested in Innsbruck when trying to escape to Switzerland, his cousin had let me know that when asking me to intervene on his behalf. I could not intervene because the man was transported to Dachau directly via Innsbruck-Mittenwald. Thus, he was completely out of my sphere and power as the then State Secretary for Security of the Austrian Government.

THE PRESIDENT: We will adjourn now.

*[The Tribunal recessed until 1400 hours.]*

### *Afternoon Session*

THE PRESIDENT: Colonel Amen, I suppose the defendant wants to say something about these other documents. He had answered the one, had he not?

COL. AMEN: I do not know whether he had finished, Your Lordship.

THE PRESIDENT: *[Turning to the defendant.]* Had you finished with the affidavit or the statement of Karwinsky?

KALTENBRUNNER: Your Lordship, not quite.

THE PRESIDENT: Go on then.

KALTENBRUNNER: I have no longer the document before me and I request that it be given back to me. May I please ask you to return the document to me?

COL. AMEN: Yes, it is coming.

*[The document was submitted to the defendant.]*

KALTENBRUNNER: This document has not been shown to me during previous interrogations before the Trial. Otherwise, I would have immediately answered with a request that the cousin of the witness Karwinsky, who was chief of the Social Insurance Department at Linz and who bears the same name, be called as a witness and be asked whether it is correct that he expressly told me that this Karwinsky was detained at Dachau and never at Mauthausen. May I add that the witness Dr. Skubl, who will appear before the Tribunal in another matter, can probably make a statement on the same matter, particularly regarding the fact that this witness Karwinsky was arrested near the Swiss border when he escaped after the Anschluss and that he was taken from there to Dachau.

The reason he was taken to Dachau is not exactly known to me, but Dr. Skubl will be able to give information on that subject, presumably to the effect that the intention was to prevent any intervention from Austria in connection with this former member of the Austrian Government, since Himmler was of the opinion that something might be attempted by the new Austrian Government in favor of Karwinsky.

THE PRESIDENT: Your counsel can apply to call any witnesses that you want in rebuttal. He can make application for that request. It is not necessary to go into that now.

KALTENBRUNNER: Very good, Your Lordship. I should like to make the following statement regarding the other two documents. I declare their entire contents to be untrue and incorrect. Had they been put before me in the interrogations, then, as I did in other

cases—I refer to the testimony of the witness Zutter—I would have made an urgent request that this witness be brought face to face with me. Regarding the witness Zutter, at least twice I have asked the prosecutor, who holds the rank of major and is sitting at the table over there next to Colonel Amen, that this witness who is making such serious statements against me be brought face to face with me. Today Prosecutor Colonel Amen was also present when I made that request at the time the question of Mauthausen was discussed. These gentlemen retired to consult with a third officer and discussed in English whether or not Ziereis and Zutter could be called in. Both are in this prison. All this was untrue.

THE PRESIDENT: I have already told you that your counsel can apply to call any witnesses that you wish in rebuttal.

KALTENBRUNNER: I shall ask my counsel to apply for the calling of those two witnesses.

COL. AMEN: Defendant, who was responsible for the order to kill all inmates at Mauthausen Concentration Camp shortly before the end of the war?

DR. KAUFFMANN: Mr. President, may I say a few words in connection with these two documents? Only now have they been introduced into the Trial for the first time, and only now is it possible for me to discuss these serious accusations with the defendant. He also said to me that he denies the truth of these statements. I think I should be neglecting my duty as a defense counsel if I did not ask immediately that these witnesses be heard. It might be that the Prosecution later on . . .

THE PRESIDENT: Dr. Kauffmann, what is the point of delaying the Trial? I have just said that you might make application and you know perfectly well that application has to be made in writing.

I have said twice to the witness that you, Dr. Kauffmann, his counsel, can apply for the calling of any witnesses you like in rebuttal. What is the good of delaying the Trial by getting up and making your application verbally now?

DR. KAUFFMANN: Far be it from me to cause delay, but I wanted to state here and now that I want to call these witnesses and I shall certainly make application in writing.

COL. AMEN: Did you understand the question, Defendant?

KALTENBRUNNER: Yes. You asked me who had given the order for the killing of the inmates at Mauthausen at the end of the war, and to that I reply that such an order is unknown to me. I gave only one order with regard to Mauthausen and that was to the effect that the entire camp and all internees were to be surrendered to the enemy without any ill-treatment. This order was dictated by

me in the presence of the witness Dr. Höttl, and taken to Mauthausen by a courier-officer. I draw your attention to the statement of Dr. Höttl in which he confirms that fact. A questionnaire has been sent to a second person by my Defense Counsel. I requested a similar statement from him, but it is still unanswered.

COL. AMEN: I did not ask you about that order. I asked you about an order to kill all inmates at Mauthausen Concentration Camp shortly before the end of the war. Who was responsible for that order? Were you?

KALTENBRUNNER: No.

COL. AMEN: You are acquainted with the person who tells the story, Ziереis?

KALTENBRUNNER: Yes, I knew Ziереis.

COL. AMEN: And you had your picture taken with him and with Himmler, and this is now in evidence before this Tribunal. Do you recall that?

KALTENBRUNNER: I have not seen the picture. It was handed to the Tribunal while I was in the hospital.

COL. AMEN: Well, never mind the picture then.

I ask to have the defendant shown Document Number 3870-PS, which will be Exhibit Number USA-797.

Now, if the Tribunal pleases, this is a fairly long document which I do not propose to read at length, but it is one of the more important documents in the case, and so I hope that the Tribunal will read the entire statement, even though I do not bring it all out today in the interest of saving time.

THE PRESIDENT: It is a new document?

COL. AMEN: A new document, Your Lordship.

THE PRESIDENT: Is it in German?

COL. AMEN: Yes.

*[The document was submitted to the defendant.]*

This, you will note, Defendant, refers to a dying confession of Ziереis, as reported to the individual making the affidavit, and I call your attention first to the last two paragraphs on the first page, which we will read together:

"There was one SS man for 10 prisoners. The highest number of prisoners was about 17,000, not including the branch camps. The highest number in Mauthausen Camp, the branch camps included, was about 95,000. The total number of prisoners who died was 65,000. The complement was made up of Totenkopf units numbering 5,000 men, comprising guards and the command staff."



And, now, at the middle of the next page, the paragraph begins: "According to an order by Reichsführer Himmler, I was to liquidate all prisoners on the instructions of SS Obergruppenführer Dr. Kaltenbrunner; the prisoners were to be led into the tunnels of the Bergkristall works of Gusen and only one entrance was to be left open."

KALTENBRUNNER: I have not yet found the passage.

COL. AMEN: It is in the middle of Page 2. Have you got it?

KALTENBRUNNER: Yes, sir.

COL. AMEN: "Then I was to blow up this entrance to the tunnels with some explosive and thus cause the death of the prisoners. I refused to carry out this order. This meant the extermination of the prisoners in the so-called 'mother camp' Mauthausen, and in the camps Gusen I and Gusen II. Details of this are known to Herr Wolfram and to SS Obersturmführer Eckermann.

"A gas chamber camouflaged as a bathroom was built in Mauthausen Concentration Camp by order of the former garrison doctor, Dr. Krebsbach. Prisoners were gassed in this camouflaged bathroom. In addition to that, there ran, between Mauthausen and Gusen, a specially built automobile in which prisoners were gassed during the journey. The idea for the construction of this automobile was Dr. Wasiczki's, SS Untersturmführer and pharmacist. I, myself, never put any gas into this automobile; I only drove it. But I knew that prisoners were being gassed. The gassing of the prisoners was done at the request of the physician, SS Hauptsturmführer Dr. Krebsbach.

"Everything that we carried out was ordered by the Reich Security Main Office, Himmler or Heydrich, also by SS Obergruppenführer Müller or Dr. Kaltenbrunner, the latter being Chief of the Security Police."

Then, passing on to Page 5, just below the center of the page, the paragraph commencing, "In the early summer of 1943..." Have you the place?

KALTENBRUNNER: Yes.

COL. AMEN: "In the early summer of 1943, SS Obergruppenführer Dr. Kaltenbrunner visited Mauthausen Concentration Camp. Camp Commandant Zierys, Gauleiter Eigruber, Chief of the Detention Camp Bachmeyer, and several others accompanied Dr. Kaltenbrunner. I saw Dr. Kaltenbrunner and the people who accompanied him with my own eyes. According to the testimony of the 'corpse carriers' at that time, the

former prisoners Albert Tiefenbacher"—whose affidavit has been read—"present address Salzburg; and Johann Polster, present address Pottendorf near Wiener-Neustadt, Austria, about 15 prisoners under detention were selected by the detention chief, Unterscharführer Winkler, in order to show Dr. Kaltenbrunner three ways of extermination; by a shot in the neck, hanging, and gassing. Women whose hair had been shorn were among those executed and they were killed by shots in the neck. The above-mentioned 'corpse carriers' were present at the execution and had to carry the corpses to the crematorium. Dr. Kaltenbrunner went to the crematorium after the execution and later he went into the quarry.

"Baldur von Schirach visited the Mauthausen Concentration Camp in the autumn of 1944. He, too, went to the detention building and also to the crematorium."

Do you still say that you had nothing to do with the order referred to or the matters set forth in the affidavit?

**KALTENBRUNNER:** I maintain that most emphatically, and I want to draw your attention to the fact that you, sir, have said that this statement was taken when Ziereis was on his deathbed, but you did not say that what you read from Pages 7 and 8 does not come from Ziereis, but from Hans Marsalek, who is responsible for these statements. This Hans Marsalek whom, of course, I have never seen in my life, had been an internee in Mauthausen as were the two other witnesses. I have briefly expressed my views as to the value of a statement concerning me from a former concentration camp internee and my inability to speak face to face with this witness who now confronts me, and my application will be made through my counsel. I must ask here to be confronted with Marsalek. Marsalek cannot know of any such order. In spite of that he states that he did.

**COL. AMEN:** Defendant, Marsalek is merely the individual who took the dying confession from Ziereis. Do you understand that?

**KALTENBRUNNER:** No, I do not, because thus far it is new to me that the Prosecution were using internees from concentration camps for the interrogation of Ziereis, who had been shot in the stomach three times and was dying. I thought that such interrogations would have been carried out by a man who was legally trained and who would be in a position to attach the right value to such statements.

**COL. AMEN:** Well, perhaps, Defendant, if you were conducting the Prosecution, you would do it differently; but, in any event, your testimony is that everything in that affidavit which was read to you is false; is that correct?

KALTENBRUNNER: It is false. I have never given an order to the Mauthausen Camp with the exception of that one order which I was entitled to do on the strength of special powers and for the contents and transmission of which I have offered sufficient evidence. Mauthausen was never under my jurisdiction in any other way, and I could not issue any such orders. The Prosecution know perfectly well, and it must have been proved to them by dozens of testimonies, that I had never had any authority over Mauthausen.

THE PRESIDENT: Defendant, you do not seem to understand what this document is. It is an affidavit of Hans Marsalek, and Paragraph 2 shows the fact that he made the interrogation of Ziереis, who was about to die, in the presence of the commander of an armored division; and he then sets out what Ziереis said, and then he goes on to declare, in addition, what is contained in Paragraph 3; and it is perfectly obvious to the Tribunal that what is said in Paragraph 3 is not what Ziереis said, but what Marsalek said—the person who was making the affidavit.

KALTENBRUNNER: My Lord, may I say in reply that Marsalek, as an internee in the camp, was of course not in a position to know that Ziереis was never under my command. For that reason alone, it appears likely that Marsalek, when he questioned Ziереis, could not possibly know the facts of the case. I have proved to the Tribunal, and proved it to the Prosecutor, that authority was not given to me until 9 April.

THE PRESIDENT: Yes, I know; that is only a matter of argument. I was only drawing your attention to the fact that it is perfectly obvious from the document itself that what Colonel Amen was reading was a statement of Marsalek and not a statement of Ziереis, which was the point you were making.

COL. AMEN: Defendant, do you recall having given an order to the commandant of the Mauthausen Concentration Camp on the 27th of April 1945, that at least 1,000 persons should be killed at Mauthausen each day? Is that true or false?

KALTENBRUNNER: I have never given such an order. You know . . .

COL. AMEN: Were you acquainted with SS Colonel Ziереis, the same person we have just been speaking of?

KALTENBRUNNER: Yes.

COL. AMEN: And were you acquainted with Kurt Becher or Becker, a former colonel in the SS?

KALTENBRUNNER: No.

COL. AMEN: I ask to have the defendant shown Document Number 3762-PS, which will become Exhibit Number USA-798.

*[The document was submitted to the defendant.]*

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KALTENBRUNNER: You asked, sir, whether I knew an SS Colonel Becker, and I answered, "No"; but the man is Kurt Becher.

COL. AMEN: That is all the better. You do know him then, do you?

KALTENBRUNNER: I know him, yes.

COL. AMEN: Very good.

THE PRESIDENT: Colonel Amen, have these documents been translated into all languages?

COL. AMEN: I believe they have, every one of them, yes. No, I am told that all of them have not; some of them have. This one is in English and German, Your Lordship. We did not have time to get them translated into the Russian and French, although it is now in process.

THE PRESIDENT: Yes, then it will be done?

COL. AMEN: Yes, Sir; it is being done, yes.

THE PRESIDENT: Very well.

KALTENBRUNNER: May I reply to it?

THE PRESIDENT: In order that the record should be properly complete, the Tribunal would like the Prosecution to state when the translation has been done, so that the matter should be thoroughly in order.

COL. AMEN: Precisely.

Defendant, we will now read this document together:

"I, Kurt Becher, former SS Standartenführer, born 12 September 1909, at Hamburg, declare the following under oath:

"1. Between the middle of September and the middle of October 1944 I caused the Reichsführer SS Himmler to issue the following order, which I received in two originals, one each for SS Obergruppenführer Kaltenbrunner and Pohl, and a copy for myself:

"By this order, which becomes immediately effective, I forbid any extermination of Jews and order that, on the contrary, care should be given to weak and sick persons. I hold you'—and here Kaltenbrunner and Pohl were meant—'personally responsible even if this order should not be strictly adhered to by subordinate offices.'

"I personally took Pohl's copy to him at his offices in Berlin and left the copy for Kaltenbrunner at his office in Berlin. Therefore, in my opinion Kaltenbrunner and Pohl bear the responsibility after this date for any further killings of Jewish prisoners.

"2. When visiting Mauthausen Concentration Camp on 27 April 1945 at 0900 hours, I was told in the strictest secrecy by the camp commandant, SS Standartenführer Ziereis, that 'Kaltenbrunner gave me the order that at least a thousand persons would still have to die at Mauthausen each day.'

"The facts mentioned above are true. These statements are made by me voluntarily and without any coercion. I have read them through, signed them, and confirmed them with my oath."

Is that true or false, Defendant?

KALTENBRUNNER: In part it is correct and in part it is not. I shall explain it sentence by sentence.

COL. AMEN: No, suppose you simply tell us what you claim to be false, because we must get on with this.

KALTENBRUNNER: I quite believe that you want to save time, but this is a question of establishing my guilt or my innocence and to do that I must be given an opportunity to make a statement in detail. Otherwise neither you nor the Tribunal would know the truth; and that is what we want here, I hope. I am glad that this witness, Becher, was found and that this statement is available, because it proves, first that in September or October 1944 Himmler was forced to issue this order—that same Himmler about whom it has been definitely established that since 1939 or 1940 he had become guilty of the crime of killing Jews on the largest scale.

And now we must find out why in September or October Himmler had given such an order. Before I had seen this document I stated yesterday and today that this order was issued by Hitler on my representations, and obviously this order from Himmler is based on another order which he received from Hitler.

Secondly, it is clear to me that Himmler gave such an order to Pohl as the person responsible for those concentration camps in which Jews were kept; and thirdly, that he has informed me, Kaltenbrunner, of this as the person who opposed Himmler. As to Becher, I have to go farther back.

Through this man Becher Himmler did the worst things which could possibly be done and brought to light here. Through Becher and the Joint Committee in Hungary and Switzerland he released Jews in exchange, first, for war equipment, then secondly, for raw material, and thirdly, for foreign currency. I heard about this through the intelligence service and immediately attempted to stop this, not through Himmler because I would have failed but through Hitler. At that moment any personal credit of Himmler with Hitler was undermined, for this action might have changed the reputation of the Reich abroad in the most serious manner.

At the same time my efforts in connection with Burckhardt had already been going on, and now you understand why the witness Schellenberg stated that Himmler had said to him, "I am alarmed; now Kaltenbrunner has got me under his thumb." This means that Kaltenbrunner had completely revealed all the things Himmler was doing in Hungary and had told Hitler about it.

By this order Himmler attempted to camouflage it and to get out of the whole thing by pretending that the responsibility rested on Kaltenbrunner and Pohl anyhow. Even according to this document the responsibility rested on Himmler and Pohl, but Kaltenbrunner had to be included and be told about it because otherwise he might bring the subject up with Hitler any day. That is the sense of the document.

This witness, Becher, is now in Nuremberg. I beg absolutely to be confronted with him here. I am quite able to prove to the public with the help of this witness how, starting with the transfer of the so-called Weiss A.G. in Hungary up to that day, Himmler, with Pohl and Becher and the two committees in Hungary and Switzerland were running this business. And I can prove how I fought against it.

There is yet another accusation in this document, that on 27 April I am supposed to have given a strictly secret order to Zierys that 1,000 Jews had to be exterminated in Mauthausen every day. I ask you to have the witness Höttl, who is also here, called in immediately, so that I may ask him on what day I dictated and sent by courier-officer to Mauthausen the order that the entire camp with all its inmates be surrendered to the enemy. This witness will confirm to you that this order was given several days before 27 April and that I could not have given orders to the contrary on 27 April.

I ask you, sir, not to take me unawares and maneuver me into a position where I might go to pieces. I shall not break down. I swear to you and I have sworn that I want to help you establish the truth.

COL. AMEN: Defendant, you have heard evidence at this Trial with respect to the meaning of the phrase "special treatment," have you not? Have you heard that in this courtroom?

KALTENBRUNNER: The expression "special treatment" has been used by my interrogators several times every day, yes.

COL. AMEN: You know what it means?

KALTENBRUNNER: It can only be assumed, although I cannot give an accurate explanation, that this was a death sentence, not imposed by a public court but by an order of Himmler's.

COL. AMEN: Well, the Defendant Keitel testified that, I think, it was a matter of common knowledge. Have you not at all times

known what was meant by "special treatment"? "Yes" or "no," please.

KALTENBRUNNER: Yes. I have told you; an order from Himmler—I am referring to Hitler's order of 1941, therefore also an order from Hitler—that executions should be carried out without legal procedure.

COL. AMEN: Did you ever discuss with Gruppenführer Müller of Amt IV the application of "special treatment" to certain individuals? "Yes" or "no," please.

KALTENBRUNNER: No; I know that the witness Schellenberg said . . .

COL. AMEN: I ask to have the defendant shown Document Number 3839-PS which will become Exhibit Number USA-799. By the way, were you acquainted with Joseph Spacil?

THE PRESIDENT: Answer the question.

COL. AMEN: Were you acquainted with Joseph Spacil?

KALTENBRUNNER: Spassel? No.

COL. AMEN: He is the person who makes the affidavit now before you.

KALTENBRUNNER: The name which is mentioned here is Joseph Spacil, and that man I know, yes.

COL. AMEN: Now, will you look at the center of the first page, a paragraph commencing "In regard to 'special treatment' . . ." Have you the place?

KALTENBRUNNER: Not yet, no. In order to understand the document I shall have to read all of it.

COL. AMEN: Well, if you have to read all of these documents, Defendant, we would never get through, because the first part has nothing to do with the part which I am interested in or with you.

KALTENBRUNNER: I beg your pardon, sir, I am sure that you are interested in expediting the procedure as far as possible as we defendants are anxious not to delay the proceedings; but it is necessary for my defense that I should at least be allowed to read a document on which I have to make a statement.

COL. AMEN: But, Defendant, your lawyer is receiving copies of all these documents, and I am sure that whatever is there, which should be brought out on your behalf, he will see to it that it will be brought out at the proper time, which will be after I get through asking you these questions. Is that not satisfactory?

KALTENBRUNNER: No, that is not enough for me. I must know, at any rate, what is contained in that document, since you are asking me to make a statement on it now.

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COL. AMEN: Well, go ahead and read it then.

THE PRESIDENT: Defendant, not only your own counsel will look after your interests, but the Tribunal will look after your interests; and you must answer the question, please.

KALTENBRUNNER: Yes.

COL. AMEN: Very well. Now let us read along in the center of the page, commencing with:

"In regard to 'special treatment' I have the following knowledge:

"On occasion of meetings of the office chiefs, Gruppenführer Müller frequently consulted Kaltenbrunner as to whether this or that case should be specially treated or if 'special treatment' was to be considered. The following is an example of how the conversation went:

"Müller: Case Obergruppenführer B, please, 'special treatment' or not?

"Kaltenbrunner: Yes, or submit it to the Reichsführer SS for decision.

"Or:

"Müller: Obergruppenführer, no answer has arrived from the Reichsführer SS in regard to 'special treatment' for Case A.

"Kaltenbrunner: Ask once more.

"Or:

"Müller handed a paper to Kaltenbrunner and asked for instructions, as described above.

"When Müller had such a conversation with Kaltenbrunner, he only mentioned the initials, so that the persons present at the table never knew who was involved."

And then the last two paragraphs:

"Both Müller and Kaltenbrunner proposed in my presence 'special treatment' or submission to the Reichsführer SS for approval of 'special treatment' for certain cases which I cannot specify in detail. I estimate that in approximately 50 percent of the cases 'special treatment' was approved."

Are the contents of that affidavit true or false, Defendant?

KALTENBRUNNER: The contents are not correct, when given the interpretation you are giving to the document. You will see immediately that the tragic expression "special treatment" is given here an absolutely humorous turn. Do you know the meaning of Winzerstube in Godesberg, and of Walsertal in the Walsertal, and their relation to the term "Sonderbehandlung"? Walsertal is the smartest and most fashionable Alpine hotel of the whole German



Reich, and the Winzerstube is a very famous hotel in Godesberg in which many international meetings were held. Especially qualified and distinguished personalities were accommodated there—I would mention M. Poncet and M. Herriot and many more. They had three times the normal ration for diplomats, which is nine times the ration of the ordinary German during the war. They were daily given a bottle of champagne. They were allowed to correspond freely with their families in France and to receive parcels. These internees were allowed to receive visits on several occasions, their wishes were cared for wherever they were. That is what is meant here by "special treatment."

I can only state here that it may well be that Müller may have talked about this to me, since I was extremely anxious from the point of view of foreign policy and intelligence that the Reich should now follow my suggestion and treat foreign persons in a more humane manner. It is in this connection that Müller may have spoken to me, but Winzerstube and Godesberg, these two final achievements of this so-called "special treatment," were the places where political internees upon parole were accommodated and received preferential treatment.

COL. AMEN: Did you have frequent meetings with your section heads, including Müller, as indicated in this document?

KALTENBRUNNER: I stated yesterday and today that, of course, I met Müller when we were lunching together, which we had to do because all our 38 buildings in Berlin had been destroyed or damaged by bombs, but I did not talk to him about official matters concerning Amt IV.

This document makes it clear that these were matters of extreme interest to me as Chief of Intelligence.

May I ask you not to leave this document just yet. It must be put on record before this Tribunal that these two establishments are used as I wished for the preferential and better treatment than that enjoyed by the Germans. That is of great importance to me for my defense, and I am asking you—I shall ask you through my counsel—that you make detailed inquiries about these two hotels, and I also request that you ask M. Poncet, as the leader of the French detainees, about the treatment he received there. He had such a good time there that he gave French lessons to the wife of a criminal investigation official, and taught her French when they went for walks for hours without being guarded at all.

COL. AMEN: Defendant, did you or did you not issue instructions to Müller, as Section Chief IV, as to whether certain individuals who were in confinement at Berlin should be transported to southern Germany or be shot? And for your assistance, I will suggest to you

that it was in February 1945 when the Russian armies were closing in on Berlin. "Yes" or "no", if you can.

KALTENBRUNNER: No, the Russian Army was not very near Berlin in February 1945. I think military persons here would be able to give you more precise information as to where the fighting was going on at the time. I do not believe that there was a reason for the evacuation of any camps to the south at that time.

COL. AMEN: Were you acquainted with Martin Sandberger, Group Leader VI A of the RSHA?

KALTENBRUNNER: Yes. He was the first assistant of this Schellenberg who has been mentioned several times, and he acted as intermediary with regard to intelligence news between Himmler and Schellenberg.

COL. AMEN: I ask to have the defendant shown the Document 3838-PS, which will become Exhibit USA-800.

*[The document was submitted to the defendant.]*

I call your attention only to the first two paragraphs of that affidavit:

"In my capacity as Group Leader VI A at the RSHA, the following became known to me:

"In February 1945 I was told by Group Leader VI B, SS Standartenführer Steimle, that he had to represent Schellenberg at the daily office chief meetings. On that occasion, Müller, Chief of Amt IV, presented to Kaltenbrunner a list of persons who were in confinement in or close to Berlin, for Kaltenbrunner to decide whether they were to be transported to southern Germany or whether they were to be shot, because the Russian armies were closing in on Berlin. Steimle did not know who these people were. Kaltenbrunner made his decisions in an extremely hasty and superficial manner and Steimle expressed his indignation to me about the frivolity of this procedure. From this I inferred that Kaltenbrunner had ordered a number of shootings, because if evacuation had been ordered there would have been no talk about the frivolity of the procedure."

Is that affidavit true or false?

KALTENBRUNNER: The statement is not correct, and although it surprises me I can immediately refute it. Perhaps I may draw attention to the following points:

First, the document was prepared at Oberursel on 19 November 1945 by the witness Sandberger. In the second half of the first paragraph he states that he had been in England together with

Schellenberg. I beg your pardon; he states this in the second paragraph. "As I was informed by Schellenberg at an internment camp in England when taking a walk. . . ." You can gather from the second part that he, together with Schellenberg, was in an interrogation camp near London, in which I also was kept for 10 weeks, where they had detailed discussions. Therefore it is important, because something more will have to be said about this man Schellenberg, to know whether Sandberger received this information from Steimle before February 1945, or whether he got it through Schellenberg in London when they were interned together. That can be ascertained only by having Sandberger questioned here directly through my defense counsel. Until then, I must refute this statement altogether.

COL. AMEN: All right.

KALTENBRUNNER: No, sir; I have by no means finished what I have to say. Secondly, Sandberger states that he had heard from Steimle what Steimle had heard. Personally I would not attach too much credit to any information at third or fourth hand, and I would strongly challenge a statement such as Steimle has made. I had not the authority to make such decisions; nor could Steimle, Sandberger, or Schellenberg ever have had any doubt of the fact that only Himmler could have made such decisions.

Thirdly, only once did I hear of such treatment of witnesses. I personally intervened and made that known here. This was in the case of Schuschnigg, who was in one such camp which was threatened by the Russians. On 1 February 1945—I remember this date very well and it can be confirmed by another defendant here—I replied to this other defendant when he asked, "Could we not do something for Schuschnigg so that he will not fall into the hands of the Russians? Will you or shall I make the suggestion to the Führer to have him released from detention or at least to take him somewhere where he will not fall into the hands of the Russians but rather into American hands?" Whereupon, one of us—I cannot remember who, possibly both of us—took this proposal to Hitler.

THE PRESIDENT: Surely you are going very far afield. The Tribunal quite understands that you point out, which is obvious, that this is hearsay evidence. The only question for you is whether Müller did on this occasion present a list of names to you, and we understand that you say he did not. We do not want to hear argument about it.

KALTENBRUNNER: No, Your Lordship, Müller did not submit such a list to me, but I must define in some way my attitude to this document which has just been shown to me for the first time. I do not want it to appear to the Tribunal that I can defend myself only after I have been in consultation with my lawyer for hours. I want

to tell the prosecutor to his face that this is not true. And I do; somehow I must defend my veracity. I cannot give an answer straight away and I cannot make it easier for the prosecutor except by requesting him to bring this witness, Sandberger, into court; he can discuss with him at length in the meantime, so as to tell him why I do not consider it credible. I must tell the Tribunal beforehand why these things are untrue.

COL. AMEN: Defendant, are you familiar with the so-called "bullet" order that was directed to the Mauthausen Concentration Camp? "Yes" or "no"?

KALTENBRUNNER: I made a detailed statement on this bullet order yesterday and I stated that I did not know of that order.

COL. AMEN: Did you ever issue any oral orders supplementing the so-called "bullet" order—you yourself; did you ever issue any such?

KALTENBRUNNER: No.

COL. AMEN: I ask to have the defendant shown Document 3844-PS, which will become Exhibit USA-801.

*[The document was submitted to the defendant.]*

Were you acquainted with Josef Niedermeyer, Defendant? Josef Niedermeyer?

KALTENBRUNNER: No, I do not recollect having known him.

COL. AMEN: Well, perhaps this will bring it back to you—Paragraph 1:

"From the autumn of 1942 until May 1945 the so-called call-barracks of the Mauthausen Concentration Camp were under my supervision.

"2. At the beginning of December 1944 the so-called 'bullet' orders were shown to me in the political department of the Mauthausen Concentration Camp. These were two orders, each of which bore the signature of Kaltenbrunner. I saw both of these signatures myself. One of these orders stated that foreign civilian workers who had repeatedly escaped from labor camps were, when recaptured, to be sent to the Mauthausen Concentration Camp under the 'bullet' action.

"The second order stated that the same procedure was to be followed with officers and noncommissioned officers who were prisoners of war, with the exception of British and Americans, if they repeatedly escaped from prisoner-of-war camps. These prisoners of war were also to be brought to the Mauthausen Concentration Camp.

"3. On the strength of the 'bullet' orders and the oral instructions of Kaltenbrunner which accompanied them, 1,300

foreign civilian workers, officers, and noncommissioned officers were brought to the Mauthausen Concentration Camp. There they were lodged in Block 20 and fed so badly, according to orders, that they had to starve. Eight hundred of them died from hunger and illness. The bad food and the lack of medical care were the result of the personal oral orders of Kaltenbrunner."

Is that statement true or false, Defendant?

KALTENBRUNNER: No, sir, that is not correct. I believe that I can invalidate this document right now. May I draw your attention to Page 2. On Page 2, Paragraph 3, it says in the third lines "1,300 foreign civilian workers, officers, and noncommissioned officers were brought..." From the words "civilian workers"...

COL. AMEN: Defendant, I am primarily interested in Paragraph 2, which has to do with the fact that the person who makes the affidavit saw two "bullet" orders bearing your signature. Is that, so far as you know, true or false?

KALTENBRUNNER: No; I said yesterday, and I repeat it today under oath that these bullet orders were not known to me. To dispute the veracity of the witness and the evidential value of the document, I must be able personally to raise my arguments on those points where it is particularly obvious that the Prosecution is wrong, that is, in the third line of Paragraph 3. Here the witness—whose signature differs completely from the writing of the statement, and this is a fact to which I would like to invite the attention of the Tribunal—the witness completely forgot that the bullet orders, the text of which has been read here repeatedly, referred to officers and noncommissioned officers, but not to civilian workers. How, on the basis of a false order, could such a thing happen at all? I cannot pass the death sentence for murder on the strength of a civilian paragraph such as 820 of BGB (Code of Civil Law), nor can I on the strength of the bullet orders lock civilian workers up in a camp. The witness, in his haste and anxiety to oblige, had forgotten these details.

Nor do I believe that this man has ever seen a document which bears my signature. Such a document was never submitted to me either.

Once again, I must ask that this witness—and I am sure there will be others on the Mauthausen question—that this witness and all the others should be brought here and questioned as to how their statements came to be made.

COL. AMEN: Defendant, do you recall the testimony of the witness Wisliceny with respect to your participation in the forced labor program on the defenses below Vienna?

KALTENBRUNNER: I have not quite finished answering your last questions. Excuse me, but I still have something vital to say on this matter.

COL. AMEN: I thought you were through with that.

KALTENBRUNNER: Yes, I thought so, too, but I have just remembered something important.

COL. AMEN: All right.

KALTENBRUNNER: It is very relevant that I should refer you to what I said about the bullet orders yesterday. I stated that it became known to me in December or January 1944-45, and what my reaction was, and how I opposed it. These circumstances, too, explain the fact that I could not, shortly before that, have signed the order myself.

Apart from that, it is totally impossible for a Kaltenbrunner to sign a bullet order, when it is clear to the Prosecution here that it was signed already in 1941 by Hitler. This is why I wanted to make that final remark about the document.

Now, will you please be good enough to repeat the next question?

COL. AMEN: I want to call your attention to the testimony of Wisliceny with respect to your participation in the forced labor program on the defenses below Vienna. Are you familiar with what he said in this court?

KALTENBRUNNER: No.

COL. AMEN: Well, I will read it to you. It is very short:

"Question: With reference to the Jews who were left in Budapest, what happened to them?"

"Answer: In October-November 1944 about 30,000, perhaps a few thousand more, were taken out and brought to Germany. They were to be used for work on the defenses in Vienna. They were mostly women. A large number of these people were put into the labor camps on the lower Danube, and they died there from sheer exhaustion. A small percentage, perhaps 12,000, were taken to Vienna, the western boundary, and about 3,000 were taken to Bergen and Belsen and then to Switzerland. Those were Jews that had come from Germany."

Now, Defendant, do you recall having had any correspondence with the Bürgermeister of the city of Vienna with respect to the assignment of this forced labor in the city of Vienna?

KALTENBRUNNER: I have never written a single letter to the Bürgermeister of Budapest, and I should very much like to ask you to show me any such letter.

COL. AMEN: I did not say Budapest; I said the Bürgermeister of the city of Vienna, or I intended to, if I did not.

KALTENBRUNNER: The Bürgermeister of Vienna? I cannot remember having had any correspondence with him either. I think perhaps I can explain the matter to you by saying that these frontier fortifications which must be meant here did not come under the city of Vienna, but under the Gau of the lower Danube. I did not know that Vienna had a joint frontier with Hungary.

COL. AMEN: Well, you have already testified that you had nothing to do with participating in this forced labor program; is that not correct?

KALTENBRUNNER: Yes.

COL. AMEN: All right.

I ask to have the defendant shown Document 3803-PS, Exhibit Number USA-802.

*[The document was submitted to the defendant.]*

I call your attention to the first three paragraphs. You will note that the letter comes from yourself, and reads as follows:

"To the Bürgermeister of the city of Vienna, SS Brigadeführer Blaschke.

"Subject: Assignment of labor to essential war work in the city of Vienna.

"Re: Your letter of 7 June 1944.

"Dear Blaschke: For the special reasons cited by you I have in the meantime given orders to direct several evacuation transports to Vienna-Strasshof. SS Brigadeführer Dr. Dellbruegge had, as a matter of fact, already written to me concerning the same matter. At the moment it is a question of four transports with approximately 12,000 Jews. They will reach Vienna within the next few days.

"According to previous experience it is estimated that 30 percent of the transport will consist of Jews able to work, approximately 3,600 in this case, who can be utilized for the work in question, it being understood that they are subject to removal at any time. It is obvious that these people must be assigned to work in large, well-guarded groups, and accommodated in secured camps, and this is an absolute prerequisite for making these Jews available.

"The women and children of these Jews who were unable to work, and who are all being kept in readiness for a special action and therefore one day will be removed again, must stay in the guarded camp also during the day.

"Please discuss further details with the State Police head office in Vienna, SS Obersturmbannführer Dr. Ebner and

SS Obersturmbannführer Krumej of the Sondereinsatzkommando Hungary, who at present is in Vienna.

"I hope these transports will be of help to you in carrying out the urgent work you have in view.

"Heil Hitler. Yours, Kaltenbrunner."

Now do you recall that communication?

KALTENBRUNNER: No.

COL. AMEN: Do you deny having written that letter?

KALTENBRUNNER: Yes.

COL. AMEN: Well, I think, Defendant, that this time your signature is affixed to the original of this letter. Have you the original?

KALTENBRUNNER: Yes.

COL. AMEN: Is that not your signature?

KALTENBRUNNER: No, that is not my signature. It is a signature either in ink or it is a facsimile, but it is not mine.

COL. AMEN: Defendant, I want to show you samples of your signature which you gave in the course of your interrogations, and I ask you to tell me whether or not these are your signatures.

*[Documents were submitted to the defendant.]*

KALTENBRUNNER: I have already made hundreds of such signatures, and they are probably right. The one in pencil, the document signed in pencil, has been signed by me.

COL. AMEN: Well, will you indicate them in some way, so that the Tribunal can look at the signatures which you admit are your own, and compare them with the signature on this Document 3803-PS, Exhibit USA-802?

KALTENBRUNNER: The signatures on these papers which are written in pencil are mine; they are my own.

COL. AMEN: All of them?

KALTENBRUNNER: All three.

COL. AMEN: All right.

KALTENBRUNNER: But not those in ink.

COL. AMEN: Very good.

*[The documents were submitted to the Tribunal.]*

Shall I continue, Your Lordship?

THE PRESIDENT: One moment, please.

Go on, Colonel Amen.

COL. AMEN: Defendant, you have heard the evidence with respect to the establishment of the Warsaw Ghetto and the clearing of the ghetto.



THE PRESIDENT: Are you passing from this document?

COL. AMEN: Yes, Your Honor.

THE TRIBUNAL: We had better adjourn for 10 minutes.

*[A recess was taken.]*

DR. THOMA: Mr. President, I have to begin submitting my evidence in the next few days, and I do not know yet whether my Document Book 1 is admissible. Will you please also tell me on what day and at what time this can be discussed.

*[There was a pause in the proceedings.]*

THE PRESIDENT: Dr. Thoma, the Tribunal think that, subject to anything you have to say, half-past 12 tomorrow—that is Saturday morning—would be a good time at which we could decide the admissibility of your documents.

DR. THOMA: Thank you very much indeed.

COL. AMEN: If the Tribunal please, I want to revert for a moment to Document 3803-PS with the signature.

Defendant, have you the original of that exhibit before you?

KALTENBRUNNER: Yes.

COL. AMEN: Will you look at the signature and tell me whether you do not find, written by hand just above the signature, the letters D-e-i-n?

KALTENBRUNNER: Yes.

COL. AMEN: And as I understand it, that word means "yours"; in other words, it is an intimate expression used only between close personal friends, is that not correct?

KALTENBRUNNER: In German there are only two forms of concluding a letter: either "Ihr," I-h-r, or "Dein," D-e-i-n. We use the latter, "Dein," if we are on close terms, friendly terms. Blaschke, the Mayor of Vienna, is a friend of mine and apparently . . .

COL. AMEN: Now, would it not be an absolutely ridiculous and unthinkable thing that a stamp or facsimile would be made up which contained not only a signature but the expression "Dein" above the signature?

KALTENBRUNNER: That would be nonsensical, I wholly agree with that; but I did not say that it must be a facsimile signature. I just said that it is not my signature.

It is either a facsimile or it has been put underneath with another signature. The author of this letter—you did not allow me to finish before—as it can be seen from the code in the upper left-hand

corner, is to be found in Section IV A and B. Everyone in the department and the entire German Reich knew that the Mayor of Vienna, Blaschke, and myself had been close personal friends since our common political activity in Vienna, that is for about 10 years, and had used the familiar form of address, "Du." Therefore, if, for instance, I had been absent from Berlin, and the letter was urgent—as I assume to be the case from the contents—the official might have considered it justifiable to write in this form. I did not authorize him and, of course, it is quite impossible, but that is the only way I can explain it.

COL. AMEN: Then, Defendant, at least you agree that it is not a facsimile signature, is that correct?

KALTENBRUNNER: It would be most unusual to have made a stamp with the words, "Dein." It would be entirely out of the question. Therefore, the official himself must have written the signature. Everybody knew that I was on familiar terms with Blaschke and therefore the word "Dein" had to appear, if he used my signature at all.

Please look also at the figure 30 on the top. From many samples of my writing you can see that I do not write like that at all.

COL. AMEN: Defendant, is it not equally ridiculous to think that a person, or an official, as you term him, in signing such a letter on your behalf would try to imitate your signature?

KALTENBRUNNER: Quite right, but, sir, it would be a matter of course, when writing to the Mayor of Vienna, a man with whom the official perhaps knew quite well that I was on familiar terms, to put my name typewritten under a personal letter. That would be impossible as well. If I were not in Berlin he had only two possibilities open to him: either to type it in or to make it seem as though I, Kaltenbrunner, were actually there.

COL. AMEN: Is it not a fact that you are simply lying about your signature on this letter, in the same way that you are lying to this Tribunal about almost everything else you have given testimony about? Is not that a fact?

KALTENBRUNNER: Mr. Prosecutor, for a whole year I have had to submit to this insult of being called a liar. For a whole year I have been interrogated hundreds of times both here and in London, and I have been insulted in this way and even much worse. My mother, who died in 1943, was called a whore, and many other similar things were hurled at me. This term is not new to me but I should like to state that in a matter of this kind I certainly would not tell an untruth, when I claim to be believed by this Tribunal in far more important matters.

COL. AMEN: I am suggesting, Defendant, that when your testimony is so directly contrary to that of 20 or 30 other witnesses and even more documents, it is almost an incredible thing you should be telling the truth and that every witness and every document should be false. Do you not agree to that proposition?

KALTENBRUNNER: No. I cannot admit that because I have had the feeling each time a document has been submitted to me today, that it could at first glance be immediately refuted by me in its most vital points. I ask, and I hope that the Tribunal will allow me, to refer to single points and to come into closer contact with individual witnesses, so that I may defend myself to the last. Throughout the preliminary interrogations your colleague has always adopted the attitude unjustly that I was refuting and opposing insignificant points. The conception of expeditious trial proceedings has been unknown to me in this form. Had he talked to me in broad lines about the ways to find out the real truth, I believe he would have sooner arrived at considerably larger and more important issues. I am perhaps the only defendant who, on receiving the Indictment and being asked, "Are you ready to make any further statements to the Prosecution," stated "Immediately," and I signed it—please produce the signature—"from today on after receiving the Indictment I am at the disposal of the Prosecution for any information." Is it not so? Please confirm it. That gentleman [*pointing to an interpreter*] interrogated me. I have always been ready, that is, during the last 5 months, to give information on any question, but I have not been asked any more.

THE PRESIDENT: You must try to restrain yourself. And when you see the light, speak slower. You know about the light, do you not?

COL. AMEN: Is it not a fact, Defendant, that on the occasion of your last interrogation you stated that you did not wish to be interrogated any more because the questions seemed to be designed to help the Prosecution rather than to help your case, and that you were told that in that event you would not be questioned any more; that you were also informed that there were other documents and other material with which you had not been confronted and that if you desired at any time to come back and be interrogated with respect to those matters, you should tell your lawyers so and send a note and that the interrogator would be very happy to continue interrogating you? Is that not a fact, "yes" or "no"?

KALTENBRUNNER: No, sir, that was not the case. I made that statement repeatedly when I was being interrogated on points of detail. It was in the evening and it was getting very late. I believe it was about 2000 hours; I can remember the room very well. I was led out of the room. This interpreter, whom I saw here this

morning, I believe, was sitting at a long table with two or three other officials. They said, "You have received the Indictment today," and I said, "Yes, I have." They said, "Are you aware that from now on you will have to speak with the General Secretary about your defense? Do you wish to be interrogated further?" To which I said, "Yes, certainly I am at your disposal at any time." Whereupon this officer here looked at me in a very startled manner, for he did not expect that answer from me; obviously all the others appeared to have said, "No, we are glad that these interrogations have come to an end and we can work now on our defense."

COL. AMEN: Now, Defendant, I want to read to you from your last interrogation. After a question as to whether the testimony was being helpful to you sufficiently so that you wanted to continue, you spoke as follows:

"This would at least be as important for my defense as the material which is helping the Prosecutor's case and about which the Interrogator has asked me repeatedly; therefore, I have the feeling that I am still in the hands of the Prosecutor and not in the hands of a judge in charge of a preliminary hearing. As the Indictment has been served, I find myself now in a position where I can prepare my own defense, and I therefore do not find it proper that you continue to look for material which would incriminate me. Please do not regard this as any criticism or rebuttal, because I have never been informed about the procedure to be followed in these hearings and I do not know about it; but according to my knowledge of legal procedure this is incorrect. I have never been given the possibility of confronting other witnesses and of reminding them that this or that did not happen in this or that way, *et cetera*.

"Question: Is your statement made in the form of an objection to further questioning?"

"Answer: If, as I stated it now, there is a possibility of my being confronted with witnesses and to do something about testimony in my favor, I would be very glad to continue, but even so I have the feeling that it would be better to do this during the evidence at the Trial itself. I believe I should discuss this first with my defense counsel.

"Question: Well, if there is any question in your mind about whether you should go further in any interrogation by the Office of Chief of Counsel, or the U.S. representative to the International Military Tribunal, I think you should talk to your counsel, too. You have never been under any compulsion to answer either before or since this Indictment was

served. I think you will agree your treatment has been fair in all circumstances."

Is that not correct?

KALTENBRUNNER: Yes, Mr. Prosecutor, it confirms exactly what I have been telling you. The material that you just read states that I did not agree that interrogations and discussions should be broken off suddenly. I said that I had never had any opportunity of speaking with the witnesses with whom I was confronted. It confirms that I have asked you to bring me face to face with the witnesses, so that I might talk with them. I do not deny at all that I also said that I was glad that now I could start preparing my defense. Actually, that is so. But I did not say in the course of such a lengthy statement—it has not been read to me—and worded as no other interrogation has been worded with the exception of perhaps two or three, that I no longer place myself at the disposal of the interrogator. I stated just the opposite and you read that, too, that I am at the disposal of the interrogator.

COL. AMEN: Defendant, let us get to the Warsaw Ghetto. Do you recall from the evidence before this Tribunal that some 400,000 Jews were first put into the ghetto and then in the final action SS troops cleared out about 56,000, of which more than 14,000 were killed. Do you recall that evidence?

KALTENBRUNNER: I do not recall any details of this statement; what I know about this matter, I have already stated today.

COL. AMEN: Did you know that substantially all of these 400,000 Jews were murdered at the extermination plant at Treblinka? Did you know that?

KALTENBRUNNER: No.

COL. AMEN: What did you have to do with the final razing of the Warsaw Ghetto, nothing as usual?

KALTENBRUNNER: I had nothing to do with it, as I already stated.

COL. AMEN: I ask to have the defendant shown Document Number 3840-PS, which will become Exhibit Number USA-803.

*[The document was submitted to the defendant.]*

Were you acquainted with Karl Kaleske?

KALTENBRUNNER: No, that name is not known to me.

COL. AMEN: Does it help you to remember if I suggest to you that he was the adjutant of General Stroop?

KALTENBRUNNER: I do not know the adjutant of General Stroop; the name which you just mentioned to me, "Kaleske," I do not know either.

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COL. AMEN: Let us get to his affidavit. Have you got it before you now?

KALTENBRUNNER: Yes.

COL. AMEN: "My name is Karl Kaleske. I was adjutant to Dr. Von Sammern-Frankenegg from November 1942 until April 1943, while he was SS and Polizeiführer of Warsaw. I then became adjutant to SS and Polizeiführer Stroop until August 1943. The action against the Warsaw Ghetto was planned while Von Sammern-Frankenegg was SS and Polizeiführer. General Stroop took over the command on the day of the commencement of the action. The function of the Security Police during the action against the Warsaw Ghetto was to accompany the SS troops. A certain number of SS troops were assigned to the task to clear a certain street. With every SS group there were from four to six Security Policemen, because they knew the Ghetto very well. These Security Policemen were under Dr. Hahn, Commander of the Security Police of Warsaw. Hahn received his orders not from the SS and Polizeiführer of Warsaw, but directly from Kaltenbrunner in Berlin. This applies not only to the Ghetto action but to all matters. Dr. Hahn frequently came to our office and told the SS and Polizeiführer that he had received such and such an order from Kaltenbrunner, about the contents of which he wanted to inform the SS and Polizeiführer only. He would not do this for every order but only for certain ones.

"I remember the case of 300 foreign Jews who had been collected in the Polski Hotel by the Security Police. At the end of the Ghetto action Kaltenbrunner ordered the Security Police to transport these people. During my time in Warsaw the Security Police were in charge of matters concerning the underground movement. The Security Police handled these matters independently of the SS and Polizeiführer, and received their orders from Kaltenbrunner in Berlin. When the leader of the underground movement in Warsaw was captured, in June or July 1943, he was flown directly to Kaltenbrunner in Berlin."

Are these statements true or false, Defendant?

KALTENBRUNNER: These statements are, without exception, wrong. I will . . .

COL. AMEN: Just like all the other statements of all the other persons that have been read to you today? Is that correct?

KALTENBRUNNER: This statement is not correct. It is not true and can be refuted.

COL. AMEN: That is what you have said about all the other statements I read to you today, is that not so?

KALTENBRUNNER: Mr. Prosecutor, I must . . .

COL. AMEN: Is that so?

KALTENBRUNNER: Yes. If you bring false accusations against me I must declare them to be false. I cannot say "yes" to everything of which you accuse me just because the Prosecution is wrong in determining who is Himmler's representative here.

COL. AMEN: All right, go ahead and say whatever you want.

KALTENBRUNNER: I ask you to bear in mind what I have said about the competency and rules regarding subordination of all Higher SS and Police Leaders in the occupied territories. All of them were directly subordinated to Himmler. The SS and Police Leaders of a smaller territory were subordinated to the Higher SS and the Police Leader. The branches of the Order Police and of the Security Police were assigned to these SS and Police Leaders, who had the exclusive right to give them orders. The entire organization which thus operated in the occupied territories was excluded from the command jurisdiction of the central office of the Reich.

There are men here who can testify to the truth of what I have said. Bach-Zelewski, who was questioned here, was only in the occupied territories and knows conditions there. There is also the Defendant Frank who had to work with such a Higher SS and Police Leader who later became his State Secretary.

COL. AMEN: Your lawyer can call these people. All I am asking you is whether or not this document is true or false and then asking you to make any brief pertinent explanation that you might wish to.

KALTENBRUNNER: This document is not correct . . .

COL. AMEN: We know about potential witnesses all over Germany, and we know all these defendants in the box have knowledge about most of these affairs, but that is not what I am asking you about.

I am merely asking you whether what was in that paper was true or false and you have said it is false; now, is there anything else you feel you have to say about it?

KALTENBRUNNER: It is not correct and this witness does not know . . .

COL. AMEN: Well, you said that six times.

KALTENBRUNNER: . . . does not know the conditions.

COL. AMEN: Well, how about General Stroop? Did he know anything about it?

KALTENBRUNNER: If he was SS and Police Leader of Warsaw—and you have also shown me his diary and his film-report—then, of course, yes. Stroop was subordinated to the Higher SS and Police Leader of this place. Stroop had to carry out the action on the order coming from Himmler via the Higher SS and Police Leader.

COL. AMEN: Stroop was a pretty good friend of yours, was he not?

KALTENBRUNNER: I probably have not seen Stroop more than two or three times in my life, at Reichsführer Himmler's.

COL. AMEN: Well, if Stroop were here he at least would be in a position to tell the truth, would he not, about this Warsaw Ghetto affair?

KALTENBRUNNER: He would have to confirm my statement at least that he was subordinated to the Supreme SS and Police Leader in the Government General and that he was not subordinated to me. I should be very glad if he could confirm that immediately. From your words I must assume that he is in custody here.

COL. AMEN: Well, he is not in custody here, but fortunately we have an affidavit from him on exactly these matters about which I have been questioning you.

I ask to have the defendant shown Document Number 3841-PS, which will become Exhibit USA-804.

We will find out whether Stroop confirmed what you are trying to tell the Tribunal. You will accept what Stroop says, will you, Witness?

*[The document was submitted to the defendant.]*

KALTENBRUNNER: I have not read the document.

COL. AMEN: No; but I say, knowing Stroop and knowing the position which he held, you do not question but what he would tell the truth about the happenings in the Warsaw Ghetto, is that not what you have just said, in effect?

KALTENBRUNNER: The truth of a witness' testimony has been questioned before and rightly so. But as I do not know the document I cannot define my position as to Stroop's statement.

COL. AMEN: All right, we will read it:

"My name is Jürgen Stroop. I was SS and Polizeiführer of the Warsaw District from 17 or 18 April 1943, until the end of August 1943. The action against the Warsaw Ghetto was planned by my predecessor, SS Oberführer Dr. Von Sammern-Frankenegg. On the day when this action started I took over the command and Von Sammern-Frankenegg explained to me what was to be done. He had the order from Himmler before



him, and in addition I received a teletype from Himmler which ordered me to evacuate the Warsaw Ghetto and raze it to the ground. To carry this out, I had 2 battalions of Waffen-SS, 100 soldiers of the Wehrmacht, units of the Order Police and 75 to 100 men of the Security Police. The Security Police had been active in the Warsaw Ghetto for some time, and during this program it was their function to accompany SS units in groups of six or eight, as guides and experts in Ghetto matters. Obersturmbannführer Dr. Hahn was Commander of the Security Police of Warsaw at that time. Hahn gave the Security Police their orders concerning their tasks in this action. These orders were not given to Hahn by me, but came from Kaltenbrunner in Berlin. As SS and Polizeiführer of Warsaw I gave no orders to the Security Police. All orders came to Hahn from Kaltenbrunner in Berlin. For example, in June or July of the same year, I was together with Hahn in Kaltenbrunner's office and Kaltenbrunner told me that while Hahn and I must work together, all basic orders to the Security Police must come from him in Berlin.

"After the people had been taken out of the Ghetto—they numbered between 50,000 and 60,000—they were brought to the railway station. The Security Police had complete supervision of these people and were in charge of the transport of these people to Lublin.

"Immediately after the Ghetto action had been completed, about 300 foreign Jews were collected at the Polski Hotel. Some of these people were already there before the action, and some were brought there during the action. Kaltenbrunner ordered Hahn to transport these people away. Hahn himself told me that he had received this order from Kaltenbrunner.

"All executions were ordered by the Reich Main Security Office, Kaltenbrunner.

"I have read this statement and I have understood it completely. I have made the statement freely and without compulsion. I swear before God that this is the full truth."—Signed—"Jürgen Stroop."

Do you say that that statement of Stroop is true or false?

KALTENBRUNNER: It is untrue and I request that Stroop be brought here.

COL. AMEN: You will find that instead of its bearing out your story it confirms in substantially every detail the story told by Kaleske, who was Stroop's adjutant at the time. Is that not true, Defendant?

KALTENBRUNNER: It is not true, insofar as witness Stroop is one step closer to my story, for on Page 1 he declares he had received the orders regarding the Warsaw Ghetto from Himmler and this is something which Kaleske has never said anywhere.

COL. AMEN: I will accept that, Defendant.

KALTENBRUNNER: An interrogation of General Stroop will clarify this point completely, also that Hahn had, of course, received orders from the Gestapo in Berlin; whether in this matter, too, I do not know, since as a matter of course the offices of the Security Police had also to be at the disposal of Amt IV, particularly as far as support in legal proceedings was concerned. But what matters here, in an action taking place in the Government General and in Warsaw, is the question of what organizations were involved in this action and all witnesses versed in these matters will have to agree that this was within the jurisdiction of the Higher SS and Police Leader in the Government General, not to the Reich Security Main Office. It is completely incorrect that these Security Police forces in Warsaw and officials such as Hahn were not subordinate to the SS and Police Leader.

It can be testified to and ascertained that all Security Police offices, especially where an action of this kind was involved, could have only one leader and that was the local leader. But if, Mr. Prosecutor, you would give me again the opportunity of defining my position to these witnesses' statements more comprehensively through my defense counsel I could come back to this matter properly.

COL. AMEN: And now, Defendant, I want to refer you to Document 3819-PS, which is already in evidence as GB-306, which are notes of a conference in the Reich Chancellery on 11 July 1944, signed by Lammers and the subject of testimony before this Tribunal the other day. You recall having attended that meeting I presume.

*[The document was submitted to the defendant.]*

KALTENBRUNNER: I do not know yet. I do not know the purpose of that meeting.

COL. AMEN: You do not deny that you were there, do you?

KALTENBRUNNER: I do not know. This is the first time I have seen this document.

COL. AMEN: Now, look at Page 12, in the middle of the page, the sentence there, "In Paris, the evacuation of which was considered..."

DR. KAUFFMANN: Mr. President, may I ask for clarification of the question, whether it might have been more appropriate and correct if the Prosecution had questioned Lammers about this matter when Lammers was here on the witness stand.

THE PRESIDENT: Was this put to Lammers?

COL. AMEN: Frankly, Your Lordship, I do not know. The document was introduced and identified, and I am not sure whether he was asked about it or not. Sir David says that he introduced the document with Keitel, at the foot of Page 9.

THE PRESIDENT: Very well, go on.

COL. AMEN: Have you found the place, Defendant?

KALTENBRUNNER: Yes, I have found the place.

COL. AMEN: "In Paris, the evacuation of which was considered, 100,000 to 200,000 workers could be recruited. In this connection..."

KALTENBRUNNER: No, Mr. Prosecutor, I have not found the place.

COL. AMEN: Well, it is just above the paragraph which commences, "The Chief of the Security Police, Dr. Kaltenbrunner." Can you find that spot?

KALTENBRUNNER: Yes, I have it now.

COL. AMEN: Well, passing to that sentence:

"The Chief of the Security Police, Dr. Kaltenbrunner, declared himself willing, when asked by the Plenipotentiary General for the Allocation of Labor, to place the Security Police at his disposal for this purpose, but pointed out their numerical weakness. For the whole of France he had only 2,400 men available. It was questionable whether entire age groups could be recruited with these weak forces. In his opinion, the Foreign Office must exercise a stronger influence on the foreign governments."

Is that a true reflection of what took place at that meeting, Defendant?

KALTENBRUNNER: I cannot say that concerning the wording of the document, but I might say in explanation that according to the introduction on Page 1 it was a "Chefbesprechung" (discussion of chiefs), and that does not mean me, for I was Chief of the Reich Security Main Office. "Chefbesprechung" means the ministries and the chief Reich departments.

By questioning the witness Lammers it would have to be determined whether I was there on the orders of the Ministry of the Interior and Chief of the German Police, Himmler. That would have been possible. That I was there on the instruction of Himmler seems to become evident for me from the number mentioned. It mentions here that only 2,400 men were at our disposal. Neither the Security Police nor the SD, nor both together, ever had any number like that at their disposal. It must have included all the

forces, even the Order Police and other small organizations, which were subordinate to Himmler.

Therefore, one thing, at least, is missing in this document; that is the explanation that Kaltenbrunner, on orders of Himmler, was giving Himmler's views; that at least is missing. But by questioning the witness Dr. Lammers, I am sure we can clarify this matter.

In any case, I would like to point out that it was my opinion that I could not be helpful in this matter because, first of all, negotiations between the Foreign Office and the competent foreign—that is, the French Government, were necessary. Measures to be taken there could not be introduced without the consent of the French Government.

COL. AMEN: All right, Defendant. Now, do you recall evidence given before this Tribunal about efforts made by Germany to incite the Slovaks to revolt against Czechoslovakia and that Hitler used the insurgency of the Slovaks as one of the excuses for occupying Czechoslovakia in March of 1939?

KALTENBRUNNER: I do not know who testified to that.

COL. AMEN: Well, in any event, during the year 1938 to 1939 it is a fact, is it not, that you were the State Secretary for Security in Austria? Is that right?

KALTENBRUNNER: No, I was not State Secretary for the Security Police. I was State Secretary for the security system of the Austrian Government at Vienna, and there is an essential difference, because the Security Police in Austria was instituted and directed from Berlin.

COL. AMEN: Well, all right.

KALTENBRUNNER: And in Austria I had not the slightest influence—nor even my Minister—on the Security Police.

COL. AMEN: When did you become Supreme SS and Police Leader for Upper Austria with your headquarters in Germany?

KALTENBRUNNER: That is a complete misstatement. In Upper Austria there was no Supreme SS and Police Leader, only in Austria.

COL. AMEN: Well, when was it?

KALTENBRUNNER: That was after the liquidation of the Austrian Government and after its affairs had been settled; that can be verified exactly from the *Reichsgesetzblatt*. It was probably in the summer of 1941.

COL. AMEN: And is it not a fact that you, yourself, directed the activity of the Slovakian rebels and assisted them with explosives and ammunition? Answer that "yes" or "no," please.

KALTENBRUNNER: No.

COL. AMEN: Do you recall having participated in any conference with respect to a plan for instigating this revolt of Slovakia?

KALTENBRUNNER: It is not correct; I did not participate in instigating anything like that in Slovakia. I did take part in the first Government conferences in Slovakia and in the presence of the Delegate of the German Reich.

COL. AMEN: Did your friend Spacil assist you in carrying out these plans?

KALTENBRUNNER: That I cannot recall today. In any case, they were not German plans. If you investigate the political situation in Slovakia at that time, you will clearly see that it did not need any instigation on the part of the German Reich. The Hlinka movement then under the leadership of Dr. Tuka and also of Dr. Tiso, I believe, had made this decision a long time ago.

COL. AMEN: Were you acquainted with Obersturmbannführer Fritz Mundhenke?

KALTENBRUNNER: I did not quite catch the name.

COL. AMEN: Well, you will see it on this exhibit which I ask you to be shown now, Document Number 3942-PS, which will become Exhibit Number USA-805.

*[The document was submitted to the defendant.]*

Defendant, this is a fairly long exhibit, which I do not want to go through in detail; but I first call your attention to the opening lines:

“With respect to the occupation of Czechoslovakia, I recall that there were two different actions taken: the first one for the occupation of the Sudetenland and the border districts inhabited by German nationals; the second one for the occupation of Czechoslovakia proper...”

And the following lines:

“Some time before the second action, officers of Hlinka Guard (the illegal organization resembling the SS in the Slovakian part of Czechoslovakia) came to the office of SS Corps Area Danube, which at the time may still have had its original name of SS Oberabschnitt Österreich.”

Then follow the details of the plans for inciting this revolt. Then, coming to the end of the first paragraph, you will find the following:

“There were secret meetings to which I was not invited. I felt that I was not fully trusted. I saw the gentlemen only in Kaltenbrunner's anteroom and, as far as I can remember, in the dining room. I was told nothing about the object of the discussions which referred, without doubt, to the imminent action.”

Then he gives his reasons. And, passing to the second page, in the center, you will find the following:

"Kaltenbrunner alone was responsible for this action. In charge of the action was SS Standartenführer Spacil (nicknamed Spatz) as far as the General SS is concerned. He was chief of the administration of SS Corps Area Danube and was called later on by Kaltenbrunner to Berlin and made administration chief at the Reich Security Main Office. Spacil was one of Kaltenbrunner's most intimate friends."

Then, at the close, Paragraph 1 and 2, and subdivisions:

"I have made this statement:

"(1) Not from a feeling of revenge or because I want to be an informer, but in the knowledge that in so doing I can serve in detecting crimes which I, as a German, am ashamed of;

"(2) With the full consciousness that because of my statements I will be slandered by the other side. I know the men who for years have been after me. But this shall not deter me from helping the spirit of justice to a victorious end."

I ask you whether the substance of that document, as I have given it to you, is true or false?

**KALTENBRUNNER:** Neither true or false; it is ridiculous and consequently untrue. The document can best be characterized by drawing attention to the fact that on the first page in the introduction it says:

"... the second one for the occupation of Czechoslovakia proper (called afterwards the Protectorate of Bohemia-Moravia and the Slovakian State)."

The fact that the Republic of Slovakia has never, in the course of history, been occupied by the German Reich is sufficient to reveal the ignorance of this witness, Mundhenke, who comes from North Germany and knows nothing about history or about politics. But this document contains so many details which can be clarified almost humorously that it becomes utterly worthless.

I would like to call your attention to Page 3 of the German text and explain to you who were the men responsible for the individual big political actions which led to the occupation of Czechoslovakia.

The first is a Franz Kourik who was a chauffeur. The second is Karl Spitt also a chauffeur. The third is an SS man whose name is Apfelbeck, son of an innkeeper and a butcher by trade, and who worked as an assistant official in the administration after he had suffered a grave skull injury in a motor accident. Stadler, a small bookkeeper, and the man Petenka are unknown to me.

These men are supposed to have prepared, with me, the occupation of Slovakia by the Reich. That is utter nonsense. Excuse me for calling it so, Mr. Prosecutor, but it is and remains...

COL. AMEN: Very good, Defendant. All right. That is nonsense.

KALTENBRUNNER: One thing is true in this document and I want to come to that. I was with members of the Hlinka Guard in this house in Vienna, Park Ring 8, and I did hold a conference with them. This dealt with the union of the group of racial Germans in Slovakia and the Hlinka Guard, with a view to nominating joint candidates in the Slovakian Government. Documents prove it and files, in Pressburg at least, where my name was sufficiently known. Everybody knows it there and can confirm it, including this man Mundhenke, the leader of the racial group. But as an occupation of Slovakia never took place at all, in my opinion there is no need for me to defend myself against this accusation.

COL. AMEN: Defendant, in the course of this Trial the order of Himmler to the effect that the civilian population should not be punished for lynching Allied airmen has been introduced in evidence, and you have heard the sworn statement of Schellenberg and Gerdes to the effect that you, in your capacity as Chief of the Security Police and SD, issued such instructions to your subordinates. Do you deny these statements? "Yes" or "no," please.

KALTENBRUNNER: I do not wish to deny them, but I emphatically state that I never gave any such instructions, and I ask the Tribunal to allow my counsel to read the paper which I gave to him at the beginning of the session. This contains literally the testimony of the witness Koller, the Chief of Staff of the Luftwaffe, defining my general attitude towards this problem—that even in the presence of Hitler I declared, "I will not obey such an order." That took place somewhat later, but it shows my own personal feelings about the matter. I made a statement to my counsel already yesterday about this question.

COL. AMEN: All right, Defendant; now take a look at Document Number 3855-PS, which will become Exhibit Number USA-806. This bears your own name at the bottom, whether it be a signature, facsimile, or anything else you choose to call it. Have you the document before you?

KALTENBRUNNER: Yes.

COL. AMEN: You will note that it comes from the Chief of the Security Police and of the SD, and according to the notes in the upper left-hand portion was prepared for your signature by Amt IV A 2 B, Number 220/44 g RS.

KALTENBRUNNER: That is, Mr. Prosecutor, the first and a very grave mistake.

COL. AMEN: All right.

"a) To all commanders and inspectors of the Security Police and the SD (for oral communication to the subordinated offices);

"b) To Groups IV A and IV B, Sections IV A 1, IV A 3, IV A 4 - IV A 6, IV B 1 - IV B 4;

"c) To Office V, Reich Criminal Police Office, for information to the Higher SS and Police Leaders, to the Chief of the Under Police;

"d) To Chiefs of Offices I-III and IV of the Reich Security Main Office.

"Subject: Treatment of enemy airmen who have bailed out.

"Reference: none.

"A series of questions dealing with the treatment of enemy airmen who have been shot down needs clarification:

"I. As a general rule captured enemy airmen are to be shackled. This measure is necessary and is made with the full consent of the Chief of the High Command of the Armed Forces; a) in order to prevent frequent escapes, and b) in view of the severe shortage of personnel at the collecting stations.

"II. Enemy air crews, who a) offer resistance when captured, or b) wear civilian clothes under their uniforms are to be shot at once when captured.

"III. Most enemy airmen, especially of the Anglo-American air forces, carry with them escape bags filled with daggers, various kinds of maps, ration coupons, tools for escape, *et cetera*.

"It is absolutely necessary that escape bags be secured by the Police, as they are of the greatest assistance when making a search. They must be given to the Luftwaffe.

"IV. The order of the Reichsführer SS of 10 August 1943"—which I believe you also testified you know nothing about—"is not being carried out in full, as it has probably not been passed on orally, as ordered, to the subordinate police offices. "It is therefore repeated: It is not the duty of the police to interfere in conflicts between the Germans and English and American 'terror-fliers' who have bailed out.

"V. Near the body of an English airman who had been shot down a brassard with the inscription 'Deutsche Wehrmacht' and an official stamp was found. This brassard is only worn by combat troops, and it gives the bearer access to all military and strategically important points in the various operation



zones. Parachuted enemy agents will probably make use of this new means of camouflage.

"VI. During the past months individual cases have shown that the German population does seize enemy airmen but afterwards, while waiting for them to be handed over to the police or the Armed Forces, it does not use the proper restraint. Too strict measures on the part of the State Police against these citizens would keep them from seizing enemy airmen without restraint, since these cases must not be confused with the criminal act of helping escaped enemy airmen.

"Reichsführer SS has ordered the following measures to be applied to citizens who conduct themselves in a dishonorable manner towards captured enemy airmen either out of bad intentions or misunderstood pity:

"1) In especially severe cases, transfer to a concentration camp; announcement in the newspapers of the district.

"2) In less severe cases, protective custody for not less than 14 days at the competent State Police office; employment in the clearing of damaged areas. Should there be no damaged area affording such employment within the jurisdiction of one State Police office, the short term protective custody sentence is to be served at the nearest State Police office, *et cetera*.

"The Reichsführer SS has contacted Reichsleiter Bormann in this matter and has pointed out that it is the duty of the Party officials to instruct the population to observe absolutely necessary restraint towards enemy airmen.

"3) I leave it to the commanders and inspectors of the Security Police, and the SD to notify in writing the subordinated offices of Sections V and VI of the above decree.

"Signed: Dr. Kaltenbrunner; Certified: Rose, office clerk."

Do you deny having had anything to do with the issuance of that document? Do you deny that you signed it?

KALTENBRUNNER: This order was never submitted to me. I refer you to what I said yesterday concerning questions of direction and issuing of orders in the Secret Police office, Amt IV A which appears at the head of the letter indicating that it formulated it. In these matters this Amt was directly subordinated to Himmler.

THE PRESIDENT: I have not heard the answer to the question. Did you sign it?

KALTENBRUNNER: No.

COL. AMEN: You deny your signature and you deny knowing anything about this document bearing your name, is that correct?

KALTENBRUNNER: Mr. Prosecutor, I have . . .

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COL. AMEN: Will you answer that, Defendant? You deny this document just like you have denied every other document that has been shown to you today, is that correct?

KALTENBRUNNER: I already stated yesterday, and also told my defense counsel, that these documents were never submitted to me. I should know it today. To a certain degree I am to blame for not having paid more attention as to whether such orders were issued in my name. I never denied yesterday that I was partly to blame in this respect but my position to this question can be clearly seen from Koller's testimony.

THE PRESIDENT: I do not understand. Are you saying that the signature on the document is not yours, or that you may have signed it without looking at the decree? Which are you saying?

KALTENBRUNNER: Your Lordship, this document and this decree were never submitted to me. To sign such a document would have been completely against my inner attitude towards the entire problem. My attitude in this matter can be seen from Koller's testimony.

THE PRESIDENT: I am not asking you what your inner attitude is. I am asking you whether the name on it is written by your hand.

KALTENBRUNNER: No.

THE PRESIDENT: The Tribunal would like to look at the document.

COL. AMEN: It is a typewritten signature, Your Lordship.

THE PRESIDENT: Yes; let us look at the document.

Defendant, who is Rose?

KALTENBRUNNER: I do not know, Your Lordship.

THE PRESIDENT: Colonel Amen, can you give any idea how long you will be with your cross-examination?

COL. AMEN: Perhaps half an hour, depending on the answers of the defendant.

THE PRESIDENT: Very well. Then the Tribunal will adjourn. We will sit tomorrow at 10 o'clock to continue this part of the case, and will adjourn at half past 12 in order to hear Dr. Thoma and the Prosecution upon his documents.

*[The Tribunal adjourned until 13 April 1946 at 1000 hours.]*

# ONE HUNDRED AND SEVENTH DAY

Saturday, 13 April 1946

## *Morning Session*

COL. AMEN: Defendant, as I recall, you have testified that you had no knowledge of the Hitler Commando Order of 8 October '42 until some time in 1945. Is that not correct?

KALTENBRUNNER: I do not think that I said so. I believe that concerns the order . . .

COL. AMEN: Well, that was your testimony yesterday, according to the record, that you had no knowledge of the Hitler Commando Order of 8 October '42 until some time in the year 1945. Is that not correct? Is that not now your position?

KALTENBRUNNER: I do not believe that I made such an answer. The order is . . .

COL. AMEN: Well, what is the fact? When did you first have knowledge of the Hitler Commando Order of 8 October 1942? I am speaking of the order of 18 October '42, not 8. When did you first have knowledge of that?

KALTENBRUNNER: I cannot tell you that now, exactly.

COL. AMEN: All right.

KALTENBRUNNER: In any case, this order, if it were read to me, would probably be the same one which appeared in a Wehrmacht report or in the press.

COL. AMEN: All right. And you have also denied the testimony of your own witness, Mildner, concerning the existence of a decree issued in July or August '44, under which the Security Police were to execute members of Allied commando groups after questioning them. That is correct, is it not?

KALTENBRUNNER: I was never asked about that.

COL. AMEN: Well, I beg your pardon; but never mind, anyway. I will show you Document Number 535-PS, which will become Exhibit USA-807; and, before anything else, I want to ask you whether it is your own signature, in your own handwriting, that appears at the bottom of that document.

*[The document was submitted to the defendant.]*

KALTENBRUNNER: Yes. That is my signature.

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COL. AMEN: Oh, it is your signature, is it?

KALTENBRUNNER: Yes.

COL. AMEN: You admit that? Is that right?

KALTENBRUNNER: That is my signature, yes.

COL. AMEN: Now, when you were interrogated before this Trial, you denied that that was your signature, did you not?

KALTENBRUNNER: No, I do not believe so.

COL. AMEN: Well, I will read you your testimony on that point, to see whether that helps you to remember whether you denied it or not.

"Answer: 'From that it can only be seen that the Wehrmacht intended to write a letter to me; whether rightly or wrongly, and whether I was the right authority to write to is very questionable. In any case, the Wehrmacht wanted to get in touch with the Gestapo, as can be seen from this exchange of letters, and I am convinced that an officer of the Gestapo, namely, the one mentioned at the beginning of the letter, is the one who wrote this document.'

"Question: 'Well, this is the letter that you know nothing about, but which, nevertheless, established just how you accomplished your desires by writing to the Supreme Command of the Armed Forces. That is very clear.'

"Answer: 'But I deny that I wrote this letter.'

"Question: 'Just a moment ago, you didn't know about it, but now you deny it?'

"Answer: 'I not only did not know about the Hitler Order, but I also knew nothing about this letter.'

"Question: 'But you acknowledged your signature?'

"Answer: 'I did not say that this is my signature. I only said it resembles my signature; and I also said it is possible that it is only a facsimile. I cannot recall a letter of such contents signed by me.'

"Question: 'Would it be any more convincing to you if you saw the original letter, signed in ink?'

"Answer: 'It would certainly be more convincing, but it still would not prove that I signed in ink.'"

Did you make those answers to those questions, Defendant?

KALTENBRUNNER: Naturally, I do not remember whether I made these answers literally. But, I would like to make the following remarks to you. Questions concerning my signature have naturally always been put to me hundreds of times during interrogations, especially to confuse me. Today—I believe this is the first

time I have seen this document—I immediately declared, “Yes, this is my signature.” I certainly know my own signature; I can recognize it. However, you have also shown me signatures which certainly were not mine.

Besides, you can see from the date of the letter, 23 January 1945, that it is correct that I learned about it in 1945, as you have already stated. I could not have the faintest notion of a Hitler order issued in the year '42. And if, in your interrogation which you just read to me, I stated that I did not write this letter, then this is confirmed by the very figures which appear on top, where you read IV A 2 a, plus numerals and letters which obviously indicates that the letter was written in a section which was in charge of these matters.

That is what I mean when I say that I did not write this letter. That it may have been submitted to me for my signature among thousands of other papers which I might have had to look into possibly in the course of one day, I cannot, of course, deny. From this, however, you cannot draw the conclusion that I undoubtedly knew about the matter. You cannot imagine the extent of the official functions which I took over in complete ignorance of police background, without instructions for carrying out police functions, but rather for organizing and directing the vast intelligence service.

THE PRESIDENT: Answer questions and do not make speeches.

COL. AMEN: Defendant, is not the signature on that document before you, Document Number 535-PS, USA-807, precisely the same and identical with your signature as it appears on Document Number 3803-PS, USA-802? Just look at the two signatures, and tell the Tribunal if they are not identical.

KALTENBRUNNER: No, I never signed in that way. I always signed, “Dr. K.,” as on this document, even in informal letters.

COL. AMEN: How about the handwriting? Does that look the same to you, Defendant, or does it look different?

KALTENBRUNNER: Yes, certainly there is a kind of resemblance, but I think it has happened to every person in this courtroom that in his absence any one of his assistants at times signed a particularly urgent letter using his name.

THE PRESIDENT: Colonel Amen, the Tribunal will be able to see the signatures and judge for themselves.

COL. AMEN: Very good, Sir.

Now, do you have the exhibit before you, 535-PS?

KALTENBRUNNER: Yes.

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COL. AMEN: You will note that that emanates from IV A 2 a, as appears in the upper corner under Chief of the Security Police and of the SD.

KALTENBRUNNER: Yes, and at the beginning you said the letter was written by me.

COL. AMEN: That it is addressed to the High Command of the Armed Forces, right?

KALTENBRUNNER: Yes.

COL. AMEN: And that it refers to the Führer Order of 18 October '42, as well as to the other Führer orders referred to in the testimony of Mildner, namely, the Führer orders of 18 August '44 and 30 July '44, correct?

KALTENBRUNNER: I did not know that Mildner testified on this point. Such a statement is not known to me, nor has it been submitted to me. But, I believe, it proves...

COL. AMEN: All right. Do you note that this document refers to the Führer decrees of 18 October '42, 18 August '44, and 30 July '44. Yes or no, please.

KALTENBRUNNER: Yes. It says so here.

COL. AMEN: So that on 23 January '45 when you wrote this letter, you obviously had knowledge of those decrees, right? I mean...

KALTENBRUNNER: That is incorrect inasmuch as, in my opinion, the most important item in this letter is contained in the sixth, fifth, and fourth lines from the end: Here it says that they can make no claim upon the allowances for prisoners of war in accordance with the Geneva Convention. If, then, under the pressure of work this letter was submitted to me, it is evident that my eyes would first fall on the spot where I had to sign and also on the last lines. Here...

THE PRESIDENT: Defendant, that is not an answer to the question. The question was whether you knew the order of the 18th of October '42, of 30 July '44, and 18 August '44, when you wrote this letter. Did you know?

KALTENBRUNNER: No, I did not know of these orders, Mr. President.

COL. AMEN: All right...

KALTENBRUNNER: But please, would you let me defend myself on this point. It was clear to me that this dealt with the treatment of agents to whom the provisions of the Geneva Convention for prisoners of war are not applicable; and you cannot deny a power

at war the right to let its security police take in hand those men who do not come under the regulations of the Geneva War Convention. That is the perfect right of any power at war. There were also German agents who were engaged in hostile activity in England and other countries.

THE PRESIDENT: Defendant, you are not here to argue your case now; you are here to answer questions.

COL. AMEN: Defendant, you testified, did you not, that you first acquired knowledge of the case of the British fliers who escaped from Stalag Luft III in March of 1944, some 6 weeks after the escape occurred; is that not correct?

KALTENBRUNNER: Yes, now I assume it was about 6 weeks afterwards; at any rate, it was just when, in consequence of the speech in the House of Commons, the Foreign Office took a stand. The department chiefs turned to me, but I in turn sent them to Himmler.

COL. AMEN: But when you were interrogated about this matter before the Trial, you testified as follows, did you not?

"Question: 'You remember the case of the 80 British fliers who escaped from Stalag Luft III, which took place in March '44?'"

"Answer: 'That case is unknown to me.'"

"Question: 'General Westhoff attempted to find out from the Gestapo what had happened to these men.'"

"Answer: 'If he had negotiations with the Gestapo, he did not negotiate with me.'"

"Question: 'What do you say about the general proposition that escaped prisoners were turned over to the Gestapo?'"

"Answer: 'Such cases are not known to me.'"

Did you make those answers, yes or no?

KALTENBRUNNER: It is possible that I did; but I wish to point out to you that naturally I was completely confused by the manner in which these questions were put. I never really heard of 80 escaped airmen. Here, too, mention was made of 50 only.

COL. AMEN: For your information, 80 escaped and 50 were killed.

KALTENBRUNNER: And in addition, General Westhoff stated here that he did not discuss the Sagan case with me, but that he tried to obtain information from the State Police, that he spoke to me about the transfer of prisoner-of-war affairs to Himmler, who was the Commander of the Reserve Army, and that Sagan was referred to on this occasion.

COL. AMEN: Now, Defendant, you testified that you had no knowledge whatever of the fact that Einsatz groups of the Security Police and SD were operating in the U.S.S.R. until long after you had become Chief of the RSHA in January '43, is that not correct?

KALTENBRUNNER: Yes.

COL. AMEN: And you still say that that is correct?

KALTENBRUNNER: Yes.

COL. AMEN: You deny that you ever knew that these Einsatz groups carried out the extermination of Jews in the U.S.S.R. until long after you had become Chief of the RSHA?

KALTENBRUNNER: I only discovered this during the arguments I had with Himmler and Hitler—I believe later in 1943—probably in November.

COL. AMEN: And you admit, I take it, that you were a Higher SS and Police Leader in Austria in 1942, right?

KALTENBRUNNER: Yes.

COL. AMEN: And Schirach was a Reich Defense Commissioner in Vienna at that time, was he not?

KALTENBRUNNER: I do not know when he was appointed, but I must point out that the Higher SS and Police Leaders received those powers with which they finally were invested in three different stages. In 1941, when I became Higher SS and Police Leader, the authority of such a leader was considerably less than it was at the end of the war.

COL. AMEN: Now, if the Tribunal please, I have a document which arrived by airplane yesterday, of which there is only one original copy and which, therefore, we have not been able to get translated. So I have arranged, if it is satisfactory to the Tribunal, for the interpreter to read the excerpts from that original document, which was taken from Schirach's personal files in Vienna, and then submit the original document to the Court and have it processed just as quickly as we are able to do so. Or perhaps the Tribunal would like to see the document first. It is an original document.

THE PRESIDENT: You will read it so that it will go through into German?

COL. AMEN: Yes, Your Lordship.

THE PRESIDENT: Very well.

COL. AMEN: This is Document Number 3876-PS. It is a report issued by Heydrich to all the Higher SS and Police Leaders and Reich Defense Commissioners on the activities of the Einsatz groups in the U.S.S.R. during the month of January 1942, and on the distribution list appears the name of this defendant.



Will you read the Exhibit USA-808?

THE INTERPRETER: The right-hand side of the document bears the initials in ink, "Sch," and then several symbols, "Z-RV-K 4030-519/41 g," and below that, "1320-C." At the left on top:

"The Higher SS and Police Leader attached to the Reichsstatthalter in Vienna and in Upper and Lower Danube, within Wehrkreis XVII; the Inspector of the Order Police."

Below that there are several file numbers. The document bears the heading, "Secret." It is dated, "Vienna, 14 October 1941... Subject: Technical report on the battles in the East."

THE PRESIDENT: Is that right, 14 October 1941?

THE INTERPRETER: Yes, 14 October 1941.

THE PRESIDENT: The previous date that was given was January 1942. What is the explanation of that?

COL. AMEN: It covers the month—I think there are two different documents there. You are giving the date on one. There is a different date on the other. Is that not correct?

THE INTERPRETER: That is correct.

COL. AMEN: Well, give us the date on the other document so the record will be clear.

THE PRESIDENT: Colonel Amen, we shall be able to understand when we see the document.

COL. AMEN: Yes, Your Lordship. *[Turning to the interpreter.]* Go right ahead.

THE INTERPRETER: The date of the other document is April 23, 1942.

COL. AMEN: Go ahead.

THE INTERPRETER: I continue:

"Subject: Technical report on the battles in the East. Reference..."—and then come series of file numbers—

"The above decree of the Reichsführer SS and Chief of the German Police in the Ministry of the Interior, and also one copy each of the technical reports of the Army Command North and the SS Police Division, are herewith forwarded to you for your information and use."

The order is signed "Miegel."

COL. AMEN: Now, will you just go on to the distribution list and read, if you find it on the list, this defendant's name.

THE INTERPRETER: The name of the defendant is not on this distribution. I am coming to the next document.

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COL. AMEN: Well, it is!

THE INTERPRETER: No, it is not contained in this document, and I am now reading the second document:

"Berlin, 27 February 1942. The Chief of the Security Police and the SD, IV A 1..."—and then several different file references—

"Top secret. Subject: Activity and situation report Number 9 of the Einsatzgruppen of the Security Police and the SD in the U.S.S.R. Attached hereto..."

COL. AMEN: Just a minute. He is reading the wrong document. Your Lordship. We will have it straight in a minute.

THE INTERPRETER: I am told I am reading the right document. It is the right document, I continue:

"Herewith attached, I submit to you the ninth comprehensive report regarding the activities of the Einsatzgruppen of the Security Police and of the SD in the U.S.S.R. In future these reports will be sent to you currently as they appear. Signed, Heydrich."

Then there is a stamp, "The Reich Defense Commissioner for the Wehrkreis XVII, received 5 March 1942;" and then follows the distribution, of which Number 13 reads, "To the Higher SS and Police Leader, SS Gruppenführer, Dr. Kaltenbrunner."

COL. AMEN: His name is on the list, is it not? Now, if you will skip to "C" on that document.

THE INTERPRETER: I now read from Page 9 of the document, an extract under the heading "C. Jews:"

"The attitude of the Jews towards the Germans is still clearly hostile and criminal. It is our aim to cleanse the Eastern countries of Jews as completely as possible. Everywhere the executions are to be carried out in such a manner that they will hardly be noticed by the public. Among the population, and even among the remaining Jews, the conviction is widespread that the Jews have merely been resettled. Estonia has already been cleared of Jews. In Latvia the 29,500 Jews who remained in Riga have been reduced to 2,500. In Dünaburg there still live 962 Jews who are urgently needed for work."

I am now skipping several paragraphs and I continue:

"In Lithuania there are now in Kaunas still 15,000 Jews, in Schaulen 4,500, and in Vilna another 15,000 who are also needed for work. In White Ruthenia the Jews are being cleared out. The number of Jews in the part of the country which has so far been turned over to the civilian administration amounts to 139,000. In the meantime 33,210 Jews have

been shot by the Einsatzgruppen of the Security Police and the SD."

I now skip the rest of this extract and continue by reading another document. This is dated, "Berlin, 23 April 1942," and shows an illegible initial in ink. It bears the heading, "The Chief of the Security Police and the SD, IV A 1," and several file numbers. It bears the designation, "Top secret." This document, which is signed by Heydrich and which shows as the date of receipt 28 April 1942, lists in the distribution in the 14th place, "To the Higher SS and Police Leader, SS Gruppenführer, Dr. Kaltenbrunner, Vienna."

I now read from Page 11 of the report, and I read an extract headed "C. Jews":

"Different methods were used in solving the Jewish problem in the various front sectors. Since the greater part of the Eastern territory is free of Jews, and since the few remaining Jews, who are required for most urgent work, have been put into ghettos, it was the task of the Security Police and the SD to round up those Jews who were hiding mainly in the country. Many times Jews who had left the ghetto without permission or who were not wearing the Jewish Star have been arrested. Among others, three Jews who had been sent from the Reich to the ghetto in Riga and who had escaped, were captured and publicly hanged in the ghetto. During large-scale anti-Jewish operations 3,412 Jews in Minsk, 302 in Vileika, and 2,007 in Baranowicze were shot."

I now skip three paragraphs and continue:

"In addition to taking action against individual Jews who were known for their political or criminal activity, it was the task of the Security Police and the SD, to clean up generally the larger towns in the remaining territories of the Eastern Front. Thus, in Rakow alone 15,000, and in Artenowsk 1,224 Jews were shot, so that now there are no more Jews there. In the Crimea 1,000 Jews and Gypsies were executed."

That is all.

COL. AMEN: Defendant, do you still have the temerity to tell this Tribunal that you knew nothing about the operations of these Einsatz groups until after you took over as Chief of the RSHA?

KALTENBRUNNER: At the top left hand corner of the document can clearly be read, "The Higher SS and Police Leader..."

THE PRESIDENT: Answer the question and then you can look at the document afterwards. Do you still say that you knew nothing about these Einsatzgruppen?

KALTENBRUNNER: I have no knowledge of the contents of this document. I want to point out that the Office of the Inspector of

the Public Police dispatched this letter on 22 October 1941. Technical reports on the fighting on the Eastern Front and on the operations of the Security Police and SD, which were drafted at that time, are based on orders issued by Himmler or Heydrich and not on my orders. In no way can this document show how I regarded the entire question. If the distribution lists all the Higher SS and Police Leaders and all the offices to which these technical reports were sent, I do not regard that as proof that these offices, that is to say all the men who were working in these offices—must necessarily have known of it. You cannot assume that cognizance was actually taken of reports concerning territories over which the official in question had no jurisdiction or influence whatsoever. There is no doubt at all today that these crimes were committed in the East. But it is to be proved whether they are in any way due to my influence, either intellectually, legislatively, or administratively, and whether I approved of them, and whether I could have stopped them; all this I must absolutely deny.

COL. AMEN: Defendant, that was just one of a regular series of monthly reports, a copy of which went to you every single month. Is that not a fact, yes or no?

KALTENBRUNNER: I do not know how often such reports came. I see this report today for the first time. Of course, it cannot be denied that such technical reports from all battle zones concerning either the Security Police, or the Order Police operations, or the experiences of the Wehrmacht were issued and distributed all over the Reich.

COL. AMEN: All right, that is enough for me. Did you know about a letter written by your attorney, seeking evidence on your behalf at this Trial?

KALTENBRUNNER: I have not yet discussed such a letter with my Defense Counsel. Please ask him if he has informed me of this letter.

COL. AMEN: Well, are you not familiar with the fact that he wrote a letter to the Mayor's office in Oranienburg near Berlin and received a reply to that letter to be used on your behalf?

KALTENBRUNNER: No. Please ask him. He has not told me anything about it.

COL. AMEN: Now, then I will refer you to document number . . .

THE PRESIDENT: Colonel Amen, are you entitled to go into professional matters between the defendant and his counsel?

COL. AMEN: I believe so in this instance, Your Lordship, because the letter was sent to us directly by the recipient of the letter, with the expectation that it would be used by us. This is no confidential communication. It was a letter . . .

THE PRESIDENT: Will you let the Tribunal see the letter?

COL. AMEN: Yes, Sir.

DR. KAUFFMANN: Mr. President, this is the first time that I have heard of this matter. If the document is addressed to me, may I perhaps have a look at it before it becomes an item in this Trial?

COL. AMEN: Sure.

THE PRESIDENT: Yes, certainly, let him look at it first.

COL. AMEN: If Your Lordship please...

DR. KAUFFMANN: May I explain it, Mr. President?

THE PRESIDENT: Well, we had better hear from Colonel Amen first because he wants to introduce the document.

DR. KAUFFMANN: May I say something first?

THE PRESIDENT: Yes, Dr. Kauffmann, what do you want to say now?

DR. KAUFFMANN: Perhaps the Tribunal has already noticed that I...

THE PRESIDENT: We have not seen the document.

DR. KAUFFMANN: I have seen the document.

THE PRESIDENT: I said we have not seen it yet. We have allowed you to see it first in order that you can make any objection to it that you want to make before we see it, and then we will look at it.

DR. KAUFFMANN: Yes, I see. Mr. President, I am of the opinion that this is an unfair infringement on the rights and duties of the German Defense. The whole world may read this document. It is an inquiry which is addressed to the Mayor's office at Oranienburg. Oranienburg was a large concentration camp. Since, according to an agreement with my colleagues, I had the task of clarifying the question of the "awareness of the German people," I sent this letter containing questions which everybody may read to the Mayor's office and requested that these questions be answered. It was my intention to submit these answers, if the occasion arose, to the Tribunal. The same questions have been sent out to other towns, and I have already submitted these documents for translation and shall later submit them to the Tribunal. But it is an impossible state of affairs that a letter of a defense counsel and the reply given to that defense counsel should be disclosed here by the Prosecution.

THE PRESIDENT: Wait a minute, Dr. Kauffmann. But the document that Colonel Amen was offering in evidence was not your letter to the Mayor of Oranienburg nor his answer to you.

COL. AMEN: Yes, it was.

THE PRESIDENT: I beg your pardon, I thought you said it was a letter that has been sent to the Prosecution.

COL. AMEN: I said that, a copy was sent to the Prosecution. As I understand it, not only by the person who received it—there was no covering letter—but also turned over to the British Prosecution in a letter dated 2 April '46 from Major Wurmser.

THE PRESIDENT: I understand now. I do not think you said before it was a copy. What I understood was it might have been sent to you by mistake. If it were a copy of a letter which was sent to Dr. Kauffmann, then the position is clear as to what it was.

COL. AMEN: That is my understanding of it, Sir. And, of course, it is a copy of his letter but I know of no privilege whatsoever of a confidential...

THE PRESIDENT: What do you mean by "a copy of his letter"? A copy of the letter sent to Dr. Kauffmann?

COL. AMEN: Sent by Dr. Kauffmann to the Mayor of Oranienburg and a copy of the reply made by the Mayor to Dr. Kauffmann; and I think you will see, if Your Lordship reads the reply, how it is that it came directly to our attention.

DR. KAUFFMANN: May I add one more thing, only two or three sentences, please? I consider the presentation of these two documents a particularly severe infringement of the rights of the Defense. The Defense has had no opportunity to look at the documents of the Prosecution, and it would never have occurred to us to submit to the Tribunal documents of the Prosecution which are to our advantage. This is exclusively a matter between me, the sender of the letter, and the office answering it; how is it possible for the Prosecution to be allowed to interfere in such entirely personal matters? I do not think that is fair.

COL. AMEN: Now, if Your Lordship pleases, I think I can clear the whole thing up. This is a letter dated 2 April '46 from Major Wurmser to the British Prosecution, and it reads as follows:

"Attached please find the original correspondence regarding Oranienburg. In accordance with your request, I have ascertained that this correspondence was received in the following way. It came addressed to the Prosecution and was delivered to the General Secretary. The original was apparently sent directly to Dr. Kauffmann and the sender, the Mayor of Oranienburg, a Mr. Klausmann, dispatched at the same time a carbon copy to the Prosecution which not only consisted of his answer but also of the letter which was sent to him by Dr. Kauffmann."

THE PRESIDENT: Yes, I think we understand the circumstances now.

COL. AMEN: So I think it was sent to the Prosecution for the very purpose for which I am now endeavoring to utilize it.

THE PRESIDENT: Colonel Amen, apart altogether from the question of privilege between counsel and his client, how do you say that this document, which is a letter apparently from a private individual addressed to Dr. Kauffmann, copy of which is sent to you, is evidence at all?

COL. AMEN: Because, Your Lordship, there is included in this defendant's document book a letter which is on precisely this same point. In other words, this defendant has raised this point in his own defense. He did not read the letter.

THE PRESIDENT: That is not quite the point. This letter to Dr. Kauffmann, of which you have a copy, is not as I understand a sworn statement.

COL. AMEN: It is not sworn; no, Sir.

THE PRESIDENT: How does it become evidence then? The witness is not here.

COL. AMEN: It has the same probative value that many letters introduced here in evidence have. In fact, I think it has considerably more than many of them, because it is a letter from an official, from the mayor who has conducted an inquiry and has ascertained what I consider to be one of the most important matters in the case—namely, whether...

THE PRESIDENT: No, I do not want to hear at the moment what is in the letter.

COL. AMEN: I cannot think of a thing that was more pertinent than this letter, or more important, to be brought out at this Trial, particularly when it—well, you do not want me to go into that—particularly when it is something which the defendant has sought to interpose as his own defense, and which now turns out...

THE PRESIDENT: But he has not sought to introduce it for his own defense.

COL. AMEN: Well, I say he has sought to introduce that issue by the letter in his document book so that, even were it not otherwise perhaps relevant, it surely becomes so when the defendant has raised that precise issue in his own documents. But even aside from that, it seems to me that it is one of the most important issues in this case.

I will not characterize it in words since Your Lordship does not wish me to, but I can hardly think of anything more pertinent than the matter set forth there in the form of an official communication.

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THE PRESIDENT: Colonel Amen the only question I was asking you was how the particular document, which is an unsworn document, came to be competent evidence. Has it been seen by the witness who is under cross-examination?

COL. AMEN: Well, as an official communication, Sir, to his counsel. In the course of the discharge of his official duties as a mayor—it is a part of his job.

THE PRESIDENT: Yes, Dr. Kauffmann.

DR. KAUFFMANN: Mr. President, I do not wish to speak now about the question of procedure. I merely want to mention that this letter . . .

THE PRESIDENT: Wait a minute.

DR. KAUFFMANN: I do not want to deal at great length with the question of procedure which we touched upon just now, but I wish to emphasize that these two documents have nothing to do with the case of Kaltenbrunner as such. As I have just said, anyone may look at the document; but, since this document has nothing to do with Kaltenbrunner, it has from the very outset no value as evidence.

COL. AMEN: Well, it has even further probative value, Your Lordship, in that, if the matters referred to in this letter were known, as described in the letter to the people in Oranienburg, surely the person who occupies the position as Chief of the RSHA in Germany must certainly have the knowledge which the smallest local civilian appears to have.

THE PRESIDENT: The Tribunal will adjourn.

*[A recess was taken.]*

THE PRESIDENT: The Tribunal rules that the document is inadmissible.

COL. AMEN: That was to have been my last document, Your Lordship; so that concludes the cross-examination, except for one point. There is a witness named Hoess, who is called on behalf of the defendant, and through whom I would like to introduce two exhibits. If he is not to be called, however, then I would like to introduce those exhibits through the defendant. So I am wondering whether we could obtain a definite statement as to whether or not the witness Hoess is actually to be called by the Defense.

THE PRESIDENT: Dr. Kauffmann, are you proposing to call Hoess?

DR. KAUFFMANN: Yes.



THE PRESIDENT: You are.

DR. KAUFFMANN: I have no further questions to put to the defendant.

THE PRESIDENT: I am afraid I did not hear what you said, Dr. Kauffmann.

DR. KAUFFMANN: I have no further questions.

THE PRESIDENT: Then the defendant can return to his seat. Wait a minute, wait a minute!

CHIEF COUNSELLOR OF JUSTICE L. N. SMIRNOV (Assistant Prosecutor for the U.S.S.R.): Just a minute—stay! Mr. President, we have a few questions to put to the defendant.

THE PRESIDENT: Colonel Smirnov, we understood the other day that the Counsel for the Prosecution had agreed that there should be only one cross-examination of the Defendant Kaltenbrunner.

MR. COUNSELLOR SMIRNOV: We wish to request the Tribunal to allow us to put to the defendant a few questions, which will not take very long but which are quite indispensable for further questioning.

THE PRESIDENT: In the opinion of the Tribunal, I think you know counsel ought to settle beforehand what questions are indispensable and then have them put by the counsel who cross-examines. That is the whole object of the scheme.

Sir David, when we saw you on this subject, did you not tell us that all the prosecutors had agreed that so far as this defendant was concerned he should only be cross-examined by one?

SIR DAVID MAXWELL-FYFE: My Lord, that was the position. I understand that the Soviet Delegation have some special points, and they were going to ask, as a matter of grace of the Tribunal, whether they could put them. That is what my Soviet colleagues have informed me.

THE PRESIDENT: M. Dubost?

M. CHARLES DUBOST (Deputy Chief Prosecutor for the French Republic): My explanation will be very brief, Mr. President. In principle, the Prosecution entrusts one man to ask all these questions. It is impossible, however, for the entire investigation and examination to be carried out by one member of the Prosecution only because we do represent four different nations which have not divergent but certainly individual interests. The only person qualified to speak in the interests of a nation is the representative of that nation. I think, therefore, that the Tribunal should permit us to ask questions from time to time when we ask to be allowed to do so.

THE PRESIDENT: M. Dubost, you are not applying now, are you, for leave to have a third cross-examination; you are just speaking on general principles?

M. DUBOST: Mr. President, it is a question of principle. The Prosecution has limited itself in order to economize on time, but it requests the Tribunal for authorization to intercede when it is necessary to do so in order to represent the interests of a country.

I will not ask any questions which might have occurred to me following the interrogation by my colleague of the United States; I do not wish to retard the proceedings. I think, however, that the Tribunal could tell us that in principle we remain free to ask questions which concern our countries, especially since we alone are competent to represent the interests of our countries and cannot transfer this competency to one of our colleagues.

THE PRESIDENT: Colonel Smirnov, could you inform the Tribunal upon what questions, what points you want to cross-examine?

MR. COUNSELLOR SMIRNOV: Yesterday, when the defendant was replying to Colonel Amen's questions and denying his participation in the extermination of the Jews in the Warsaw Ghetto, he stressed that the Chief of Police in occupied Poland, Krüger, was allegedly directly subordinated to Himmler and had no connection with Kaltenbrunner at all. In the Polish documents which have just reached me, and in connection with which the Soviet Delegation has changed the order which it has primarily intended to observe, in these Polish documents there is...

THE PRESIDENT: I understand that point. Are there any other points?

MR. COUNSELLOR SMIRNOV: The second point refers to another document already submitted by the Soviet Delegation, and this point has not been covered by the preceding question; but it is of intense interest from the viewpoint of the documents previously presented. It is in regard to these two questions that I wish to examine the defendant.

THE PRESIDENT: You are aware that we are going to adjourn at half past 12 for the purpose of dealing with the documents of the Defendant Rosenberg, but you may certainly cross-examine upon these points if you will do it as shortly as you can.

MR. COUNSELLOR SMIRNOV: I believe, Mr. President, that we shall be able to finish the cross-examination in 15 minutes.

THE PRESIDENT: Very well.

MR. COUNSELLOR SMIRNOV: Witness, Colonel Amen yesterday submitted to the Tribunal a document which disclosed your

active participation in the liquidation of the Warsaw Ghetto. Perhaps you can tell us under whose orders the police were. Rebutting this document you dwelt at great length on the fact that the Police Chiefs in the occupied territories were directly subordinated to Reichsführer SS Himmler and had nothing to do with you.

Do you stick to this statement?

KALTENBRUNNER: Yes, but it should be supplemented. I also said yesterday that the Higher SS and Police Chief in the Government General was subordinate to Himmler and that, in turn, the SS and Police Leaders of the smaller districts were subordinate to him.

MR. COUNSELLOR SMIRNOV: Perhaps you can tell us to whom the police officials were subordinate?

KALTENBRUNNER: The commanders of the Security Police, the Order Police, and the Waffen-SS were subordinate to the Higher SS and to the Chief of Police. They were also subordinated to the Chiefs of Police and SS in the smaller districts.

MR. COUNSELLOR SMIRNOV: Perhaps you can remember your second statement as well, when you declared yourself opposed to Krüger's extreme tendencies towards the Polish Jews, and that you had even attempted to restrain him?

KALTENBRUNNER: I have stated that I agreed with Frank in favoring the release of Krüger—that is, his transfer from the Government General.

MR. COUNSELLOR SMIRNOV: I would like to hand Frank's diary to the defendant.

*[The document was submitted to the defendant.]*

Let him turn to Page 13, where Krüger is mentioned, and then to Page 16. From this Page 16, I shall read three paragraphs. Read and follow if it has been carefully translated, "There is no doubt"—says Krüger—"that the removal of the Jews has had a favorable effect on pacification..."

KALTENBRUNNER: That passage has not been submitted to me here. I have Page 13 of the document in my hand.

MR. COUNSELLOR SMIRNOV: Well then, we shall show you Page 16, beginning with the words "There is no doubt..." I begin again:

"There is no doubt but that the removal of the Jews has also had a favorable effect on pacification. It was for the police one of their gravest and most unpleasant tasks; but it had to be carried out by order of the Führer, since it was necessary in the interests of Europe."

I omit one paragraph and would ask you to do the same:

"One was forced to remove the Jews from the armament industries and from all industries and factories of military and economic interest unless they are exclusively employed on important war work. In such cases the Jews were collected in the large camps and from there sent by day to the munition factories. The Reichsführer SS, however, desires that the employment of these Jews stop, too. He had a long conversation on this subject with Lieutenant General Schindler and is of opinion that this wish of the Reichsführer SS cannot be carried out in full. There are among the Jewish workers specialists, skilled mechanics, and other qualified artisans who cannot at present be replaced by Poles."

I draw your attention to the next sentence:

"He therefore requests the SS Obergruppenführer, Dr. Kaltenbrunner, to describe the situation to the Reichsführer SS and to request him to refrain from removing these skilled Jewish workers. The physically best-conditioned of the Jews had been retrained by the industries, the so-called 'Maccabeans,' who worked magnificently, as well as female workers who had proved physically stronger than the male Jews. We experienced the same conditions in the clearing of the Warsaw Ghetto. By the way, this task had been very difficult."

I omit a sentence and quote the following:

"It has been proved that here, too, the Jewesses, arms in hand, had fought the men of the Waffen-SS and the police to the end."

Do these passages not prove that Krüger considered you as his commanding officer, and that when the majority of Jews had already been murdered in Poland and only a very small number of good specialists were left, Krüger appealed to Himmler—through you, as his chief—to allow these Jews to live? Does this not bear witness to the fact that Krüger considered you as his chief and acted through you?

KALTENBRUNNER: No, Mr. Prosecutor. This document, on the contrary, proves something quite different. In the first place, he himself says here that the evacuation of the Warsaw Ghetto had previously taken place; in the second place, he says that he begs me to go to Himmler and to remonstrate with him. What I said to Himmler is not contained in the document; and the fact that, on that occasion, I told Himmler for the first time, "Now I know what is going on," and protested against it, does not appear in this document. But surely I must be given the opportunity to declare and prove here that I took steps against this action; and if you cross-examine Frank or the witnesses...

MR. COUNSELLOR SMIRNOV: One moment, you have already mentioned this, Defendant.

KALTENBRUNNER: I have not finished. I have not yet finished this point. If you question the witnesses on the subject of "Government General," you will discover exactly how, on that occasion, I paid my first and only visit to the Government General, and that what I experienced and learned there became the subject of a discussion with Himmler. You cannot accuse me, on the one hand, of knowing of all these things without giving me, on the other hand, the opportunity to describe what were my reactions. In the last 2 years of the war, circumstances placed me in a position where I was able to see what was happening in the Reich and later on, near the end, in the Government General as well. But you are not giving me an opportunity to explain how I reacted, I the man who had the misfortune to get such a position at the end of the war.

MR. COUNSELLOR SMIRNOV: One little moment. But why did Krüger act through you?

KALTENBRUNNER: And further, this document does not indicate in any way in what capacity I was there; not once does he mention that I was there as his police superior. He knows only that naturally, as Chief of the Intelligence Service, I had to report very often to Himmler. So he asked me on this occasion to make these reports. But Krüger was—as it surely appears in the document—State Secretary for the security system in the Government General. He was State Secretary there, and as State Secretary he was subordinate to the Governor General, and as State Secretary...

THE PRESIDENT: You are going too fast, and you are making far too much of a speech.

KALTENBRUNNER: ...and as State Secretary for police matters in the Government General, he was, of course, immediately subordinate to Himmler. That must be...

MR. COUNSELLOR SMIRNOV: I beg you to answer briefly: Did Krüger ask you to report to Himmler on this subject or not? That is the only thing I am asking you.

KALTENBRUNNER: As far as I know, this meeting was a large meeting of administrative officials and everyone asked all those who were closest to the Führer or Himmler...

MR. COUNSELLOR SMIRNOV: Tell me, "yes" or "no": Did he ask you to report, or not?

KALTENBRUNNER: I do not know that.

MR. COUNSELLOR SMIRNOV: So you do not know. Then I will ask you a second question.

KALTENBRUNNER: From the wording I can only take...

MR. COUNSELLOR SMIRNOV: One moment.

KALTENBRUNNER: You are not allowing me to finish.

THE PRESIDENT: What did you say to the last question? Was not the question, "Did you go there?" Colonel Smirnov?

MR. COUNSELLOR SMIRNOV: I had another question to put, Mr. President.

THE PRESIDENT: I am asking you what your last question was.

MR. COUNSELLOR SMIRNOV: I asked the following question, Mr. President: Did Krüger report to Himmler through Kaltenbrunner? I was asking the defendant to answer "yes" or "no" and to abstain from making speeches.

THE PRESIDENT: What was your last question?

MR. COUNSELLOR SMIRNOV: Did Krüger ask Kaltenbrunner to report to Himmler on this subject. My second question—Mr. President, are you asking about my second question?

THE PRESIDENT: I wanted him to answer your question. Will you tell him what question you want him to answer. Don't ask him two; ask him one question. Can't you hear what I said?

MR. COUNSELLOR SMIRNOV: Yes, Mr. President.

THE PRESIDENT: Ask him one question, and see whether you can try and get him to answer it.

MR. COUNSELLOR SMIRNOV: Did Krüger ask for this to be reported to Himmler, and what did he say?

KALTENBRUNNER: It is possible that he did ask me but not as a superior. You must realize what type of assembly it was; that must also become apparent from the diary. I did not go there as the Chief of the Security Police, or as Krüger's superior; but Krüger, like dozens of other people, reported on the food situation, the administrative system . . .

MR. COUNSELLOR SMIRNOV: I would ask you to refrain from further explanations. You answered my question, and it is not worth continuing on the subject.

THE PRESIDENT: What is the matter, Dr. Seidl?

DR. SEIDL: Mr. President, a quotation from Frank's diary has been read to the Defendant Kaltenbrunner. Frank's diary consists of 42 volumes and I should like to suggest that the prosecutor give the place and the volume and the date of the entry, so that one can determine in what connection that occurred.

THE PRESIDENT: Certainly, yes.

MR. COUNSELLOR SMIRNOV: Here we have a precise indication: This is a conference of 31 May 1943 in Kraków. There it is

headed "Technical Conference..." The document is registered as Exhibit Number USA-613, Document 2233 (aa)-PS.

THE PRESIDENT: This diary presumably got a date.

MR. COUNSELLOR SMIRNOV: That is correct. This conference took place on 31 May 1943; there is the date.

THE PRESIDENT: That is what Dr. Seidl wants to know.

MR. COUNSELLOR SMIRNOV: I have a second question to put to the defendant.

THE PRESIDENT: Go on.

MR. COUNSELLOR SMIRNOV: If, as the defendant says, he was exclusively employed on intelligence work and with nothing else, then did he consider the buying over of the Iran elections and the receipt from Ribbentrop of 1 million tomans to send to agents as entering purely within the scope of intelligence work?

KALTENBRUNNER: I certainly had nothing to do with the buying of votes in Iran; but I admit, of course, that agents of my Intelligence Service did work in Iran.

MR. COUNSELLOR SMIRNOV: You did not ask Ribbentrop for 1 million tomans for bribery?

KALTENBRUNNER: No, I had sufficient means to pay my agents myself.

MR. COUNSELLOR SMIRNOV: This letter bearing Kaltenbrunner's signature has already been submitted to the Tribunal as Exhibit Number USSR-178, during Ribbentrop's cross-examination. Mention is made in this letter of the allocation of 1 million tomans. Does the defendant deny this evidence which Ribbentrop, himself, has admitted?

KALTENBRUNNER: I believe that I did not demand any money from Ribbentrop because I had enough money. Show me this letter. It might be quite possible. I had sufficient funds at my disposal for the intelligence service.

MR. COUNSELLOR SMIRNOV: The original of this letter has already been submitted to the Tribunal during Ribbentrop's interrogatory. We have only the copy but the original, of course, can be brought immediately from the document room. It is said here that:

"In order to exert a decisive influence on the election results, 400,000 tomans would be needed for bribes in Teheran and at least 600,000 tomans for the rest of Iran."

The letter ends as follows:

"I request you to tell me briefly if it would be possible to obtain 1 million tomans from the Ministry of Foreign Affairs.

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It would be possible to transfer this money by people whom we are sending there by airplane.

"Heil Hitler. Your devoted Kaltenbrunner, SS Obergruppenführer."

The contents of this letter are quite definite. Ribbentrop acknowledged the letter. Are you denying Ribbentrop's evidence?

KALTENBRUNNER: Not in the least, but I would like to add the following as far as this document is concerned. I cannot remember it easily because it was written in Office VI. I do not know the contents—did not know them until now. I am absolutely sure that I signed it, because it is a letter to a Minister of the Reich which, of course, for reasons of tact, I had to sign personally. As to the subject itself, I am grateful that the last question in this cross-examination is a question which actually refers to my sphere of activities proper. You are the first prosecutor to whom I must be grateful on that account, and who at last can no longer conceal the fact that my agents and my activities extended as far as Iran.

MR. COUNSELLOR SMIRNOV: Is that your signature?

KALTENBRUNNER: Yes.

MR. COUNSELLOR SMIRNOV: I have no further questions to put to this defendant, Mr. President.

THE PRESIDENT: What document is that you put to him then?

MR. COUNSELLOR SMIRNOV: This is Exhibit Number USSR-178, Mr. President.

THE PRESIDENT: 178?

MR. COUNSELLOR SMIRNOV: That is Kaltenbrunner's letter addressed to Von Ribbentrop, Minister of Foreign Affairs, dated 27 June 1943.

THE PRESIDENT: Very well. Thank you. Now, the Tribunal will deal with Dr. Thoma's documents for Rosenberg. Is the Prosecution ready? Are you ready, Mr. Dodd?

MR. DODD: Yes, Your Honor.

THE PRESIDENT: Would it be convenient for Mr. Dodd to tell us how the position stands? Would it be agreeable to you, Dr. Thoma, if Mr. Dodd tells us how the position stands?

DR. THOMA: Yes.

MR. DODD: Dr. Thoma has prepared three document books, and there are two volumes to the first book—two parts, two volumes—and I should like to take up first, Volumes I and II of the first document book. In the first, Volume I...

THE PRESIDENT: The Tribunal has already looked at these volumes.



MR. DODD: Well, there is contained in the book that has been submitted to us a number of authorities, starting with that first document by Falckenberg, *The History of Modern Philosophy*, and running down to the *Introduction into the Psychology of the Nations*, by Hellpach; and really, as we understand the ruling of the Court, on the 8th of March, it stated that these books could be used so far as appropriate for the purpose of argument, and to this end they should be produced and made available to Defense Counsel; and the Court went on to say that any particular passage which Counsel for the Defense wish to quote should be incorporated in the document book for translation.

We object to all of these excerpts and for mostly the same reasons, and I think I can discuss them as a group rather than individually.

THE PRESIDENT: We have all read them, and we wish only to hear any arguments which Dr. Thoma desires to make comments upon.

DR. THOMA: Mr. President, I would like to stress that only the legal points of view prompt me to offer writings of contemporary historians as evidence in this Trial. The Tribunal has to decide whether there is a connection between Rosenberg's ideology and the war crimes and crimes against Jews.

I assert that, in addition to that ideology, other factors—so-called preliminary conditions, that is, the entire contemporary situation, the philosophical and mental outlook—contributed their part; but the main question is this: Did Rosenberg culpably anticipate the dangerous possibilities of his ideas and nevertheless promulgate them? In what manner can he be considered guilty if Rosenberg was convinced that his ideas were right, and if he was unaware of their dangerous development? I shall therefore indicate facts about the mental outlook of the time which prove that his ideas were perceived, and even partly championed by exact science. I will show that other countries introduced certain National Socialist measures, such as suppressing births of children unfit for life, even before Rosenberg's books were written. Further, I shall allude to the results of the investigations of natural science on the natural basis for the existence of man and the ensuing limitation of man's freedom. I shall point to the effects and consequences of a technical age; and I want to refer to the fact that irrational ideas and conceptions have been taken seriously even by rational empirical science; and I want to show how laws govern the development of philosophical concepts and political movements which are often inevitable. On the basis of these scientific conclusions, it is possible that Rosenberg underestimated or overlooked the dangerous side of his ideology—to wit, that all ideas and conceptions degenerate according

to the laws governing the human mind. The question of guilt, therefore, must be regarded in a new light and, in my opinion, also the question of carelessness should be examined. These theses will be extracted from works on natural science by Von Eickstedt, Mühlmann, Scheidt, Keiter, and from the philosophical works of Hellpach, Messer, Tillich, Buber *et cetera*.

Gentlemen of the Tribunal, the belief that a philosophy of the irrational might be applied to politics may sound ridiculous, but I would mention that only 15 years ago in Germany it was preached that a policy based on Christian ethics was nonsensical, because Christian ethics could not be applied in the political sphere. Today we know that this is possible, and, therefore, I am pleading before a Tribunal who, to my conviction, receive their authority from these ethical motives. That is only one example for the importance of the irrational in politics. The belief in the power of the ideal and the moral is, after all, irrational, too.

Gentlemen of the Tribunal, the question of the causal connection between Rosenberg's ideology and the war crimes must not, or rather should not, be confused with the charge of Rosenberg's actual participation in the murder of the Jews and the crimes in the East. This has another connection. I will have to try to refute the actual participation of Rosenberg in these matters separately.

I would like to draw your attention to one more important viewpoint. Organizations, whose members formerly had in part been under the influence of Christianity and the so-called youth movement, and who let themselves be won over to National Socialism because they believed that by it their Christian and idealistic interests could be realized, are also indicated. They are now left helpless in their camps, disappointed in this world. They, too, have the right to ask that the Tribunal be told what they believed in and what they had been taught. I believe that I have made it clear that I am not trying to deliver a lecture on aesthetics but that these are very important legal problems.

Gentlemen of the Tribunal, if any of the authors are unsuitable, then I shall forego quoting them. Perhaps Lapouge may not be suitable at all. I withdraw his work, although it is precisely Lapouge who points out that certain biological laws have also been applied in the legislation of other states. But Mr. Justice Jackson objected to a passage from Lapouge, and I withdraw it herewith. There are also one or two works of Martin Buber which I am willing to withdraw. But I particularly wanted to use Martin Buber to prove that we are concerned here with principles which have nothing whatsoever to do with anti-Semitism but merely represent a philosophy which is as justified as the philosophy of rationalism during

the last centuries. But I ask the Tribunal that, during the presentation of evidence, cognizance be taken only of actual philosophical-historical proofs and facts. Gentlemen of the Tribunal, if I presented these facts in my address, I would run the risk of presenting only my own knowledge. That is why I need these documents.

THE PRESIDENT: Mr. Dodd, we understand that you object to all up to that book of Hellpach's. Then, with reference to the other volumes, the others are all Rosenberg's own documents, are they not?

MR. DODD: Except the two last.

THE PRESIDENT: Yes, the two last are in the same category, I suppose, as the ones down to Hellpach, are they not?

MR. DODD: Yes, there are also some quotations from newspapers contained in the document books, on Pages 182 to 185. We also made objection to them.

THE PRESIDENT: Are they in Volume II?

MR. DODD: Yes, they are in Volume II of Book 1.

THE PRESIDENT: I was dealing, at the moment, with Volume I of Document Book 1.

MR. DODD: That was the objection in Volume I.

THE PRESIDENT: Then, you are not objecting to his other books?

MR. DODD: No, Your Honor, we are not.

THE PRESIDENT: Then, in Book 2 there is not an index, is there?

MR. DODD: We have no objection to anything that is contained in Book 2.

THE PRESIDENT: In Volume II to Book 1?

MR. DODD: We were talking about Volume II, Book 1.

THE PRESIDENT: Very well; yes, I see. Then in Book 2—you do not object to Book 2?

MR. DODD: No, we do not.

THE PRESIDENT: Nor Book 3?

MR. DODD: No, we have no objection to Book 3. I think our Russian colleagues have an objection to the affidavit of Dr. Dencker. I would prefer, however, that they address the Tribunal on that subject themselves.

THE PRESIDENT: And then, is there a fourth book?

MR. DODD: No, Your Honor, there is not, but we have not talked about the second part of the first book.

THE PRESIDENT: I was told that you had.

MR. DODD: No, I think not. I did mention the newspaper articles.

THE PRESIDENT: Where are these documents that you are referring to, in the second volume of the first book?

MR. DODD: The first one will be found beginning on Page 182 of that second volume of the first book.

THE PRESIDENT: Yes, those are the last two in the index.

MR. DODD: Yes, they are.

THE PRESIDENT: We understand that you are objecting to them.

MR. DODD: Yes.

THE PRESIDENT: But the index in the first volume of the first book is the index for both the volumes.

MR. DODD: Yes, it is.

THE PRESIDENT: And what you are objecting to is all documents up to Hellpach and the last two?

MR. DODD: Yes, that is exactly right.

THE PRESIDENT: I understand. Then, with reference to Books 2 and 3 you do not object, but the Soviet Union wishes to offer an objection to this affidavit by Professor Dencker.

MR. DODD: That is exactly right, Your Honor.

THE PRESIDENT: Perhaps we had better hear what the Soviets say about that.

STATE COUNSELLOR OF JUSTICE M. Y. RAGINSKY (Assistant Prosecutor for the U.S.S.R.): I invite the Tribunal's attention to Document Rosenberg-38. This is in the third document book, Page 29. This document is a letter, dated 24 August 1931.

THE PRESIDENT: One moment, is it not an affidavit?

MR. COUNSELLOR RAGINSKY: No. I am referring to two documents, Mr. President, Document Rosenberg-38 and the second one dealing with Dencker's affidavit.

THE PRESIDENT: All right. Yes, I got Page 21. We will deal with Document 38 first, that is Page 29.

MR. COUNSELLOR RAGINSKY: This document is the letter of an unknown wine merchant, addressed to Rosenberg, concerning some sort of newspaper paragraph. We do not know this newspaper paragraph since defense counsel, Dr. Thoma, has not submitted it; and, therefore, we believe it is not relevant to the matter and all the more so since in none of his claims and in none of his explanations did Dr. Thoma explain what this document was supposed to prove nor what this letter was about.

I would then like to mention a few considerations regarding the second document, concerning Dencker's affidavit presented by

defense counsel Dr. Thoma. This affidavit is also in the third document book, Pages 8-11, and is registered as Rosenberg Number 35. Judging by the contents, Dencker, a former member of Economic Staff East, participated in the perpetration of war crimes in the territories occupied by the German troops. This Dencker took part in the looting of the occupied territories of the Soviet Union.

I wish to draw the Tribunal's attention to the fact that defense counsel, Dr. Thoma, on 6 April of this year, requested the Tribunal to allow the admission of this document, and the General Secretary of the Tribunal got the opinion of the Prosecution. However, before the Tribunal had made up its mind, before the Prosecution had come to a conclusion, Dencker's affidavit was included in the document book, mimeographed and distributed to everybody. What, may I ask, is this affidavit? We consider, and it is very easy to prove, that the information contained in this affidavit throws a false light on the factual state of affairs. It contains a number of slanderous and incorrect statements which have already been refuted by various documents submitted to the Tribunal and read into the record. Therefore, inasmuch as Dencker has not been summoned before the Tribunal as a witness and we are deprived of the possibility of exposing the mendacity of his evidence under cross-examination, we consider that these documents should not be admitted by the Tribunal.

THE PRESIDENT: Yes, Dr. Thoma.

DR. THOMA: Gentlemen, I agree that Professor Dr. Dencker, who states that 180 million Reichsmark worth of tractors and other agricultural machinery was taken to the Ukraine, should be called as a witness. But this document is striking evidence of the fact that reconstruction was in process in the Ukraine, that an efficient administration was intended, that the land was not to be stupidly exploited, but that long-term plans were made in the interest of the country and the population. I, therefore, ask the Tribunal to admit this affidavit in evidence. If necessary, I shall make an application that Professor Dencker—in Bonn—be called as a witness, in case the Tribunal should be impressed with the statement of the Soviet Prosecutor.

THE PRESIDENT: Yes.

DR. THOMA: And also, Mr. President, I beg your pardon, but I did not understand the previous objection regarding Document Book Number 3. I do not have my Document Book Number 3 with me, and I do not know what the objection was.

THE PRESIDENT: On Page 29 is a letter addressed to Rosenberg by somebody without signature. It is Rosenberg-38.

DR. THOMA: Oh, yes; but that document has been admitted by the Tribunal; and the signature is "Adolf Hitler." Apparently, the typist was not able to read that.

THE PRESIDENT: It is a letter, is it?

DR. THOMA: Yes, Sir; it has already been approved. It has been approved, Gentlemen. But, I beg to apologize; I still do not quite understand. Is Hellpach the only one of my entire document book who has been approved? Is it Sir David's or Mr. Dodd's wish that only Hellpach should be quoted and nobody else? In that case I should like to have an opportunity to go a little into detail on what the other authors were intended to prove. For instance, I...

THE PRESIDENT: We have not made any decision yet.

DR. THOMA: Yes.

THE PRESIDENT: We thought that you had given us the reasons in support of the documents in Book 1, Volumes I and II.

DR. THOMA: Yes.

THE PRESIDENT: If you have given us the reasons, it is not necessary for you to say anything further.

DR. THOMA: Yes, Mr. President; but I thought that, with reference to the different books, I might state very briefly what I wished to prove.

With Messer, Tillich, Leeuw, and Bergson, I am trying to prove that neoromanticism—that is, the philosophy of the irrational, whose forerunner was Rousseau—invaded Germany with elementary force and was at the same time influenced by French, English, and American philosophers.

Secondly, through Martin Buber I wish to prove that this philosophy is not anti-Semitic, but that, on the contrary, Martin Buber not only preached this philosophy but also recommended its application in practice; it is precisely Martin Buber's work wherein we find those vital terms and expressions, which have acquired such importance in this Trial, such as the significance of blood, the myth of blood, the relation between national character and living space, of intuition, of the concepts of movement, of the character of inheritance, and so forth.

And further, Gentlemen of the Tribunal, in connection with these quotations from Eickstedt, Mühlmann, Scheidt, Keiter, I wish to state that these authors are not National Socialists, but that, in fact, they were partly opposed to Rosenberg's ideology; but they are proof of the fact that the concepts of race, people, nation, blood, and soil, *et cetera*, are recognized by natural science experts. And Hellpach, in his *Introduction to the Psychology of Nations*, made the extremely

important statement—and Hellpach is a very famous name in German philosophic literature—that every thesis leads to a synthesis and eventually breaks down.

Gentlemen, I have only one brief concluding remark to make. In the last number of *Die Neue Zeitung* there was an article to the effect that in the French Constituent Assembly a few days ago a discussion on one of the most important and basic issues of our times had begun, a discussion on the rights of man—during which the inner attitude of the members of the resistance was examined and definite theses were set up regarding liberty and the crises liable to affect the rights of man, and various contradictions were pointed out.

THE PRESIDENT: Yes.

DR. THOMA: And, Gentlemen, the following was established: There is a contradiction between the preaching of liberty and the ever greater enslavement by the machine. That is exactly what we assert. Secondly, there is a contradiction between the increase of material wealth and the decrease of spiritual values. Thirdly, contradiction is involved in every type of progress, in that every improvement is counterbalanced by corresponding decadence. Fourthly, there is an opposition between the ideals of humanism of the 18th century and the discoveries of the science of the human being—biology and psychoanalysis—which demonstrate that man is subject to the laws of nature.

Fifthly, contradiction between the broad masses of people who are “enlightened” by such superficial means as newspapers, radio, motion pictures, and all types of propaganda, and the disappearance of a thinking and cultured elite.

That was the subject of debate in the Constituent Assembly of the present French Parliament, and that is why I suggest, Gentlemen, that such questions also have a place in this Trial, since they are indicative of the political and mental attitude of the people, because highly ethical consideration may be derived from the concept of nationality. The fact that they have deteriorated is due to philosophical and biological process and partly to training, but only in part.

THE PRESIDENT: Have you finished, Dr. Thoma? Have you finished what you wanted to say?

DR. THOMA: Yes, Sir.

THE PRESIDENT: The Tribunal, of course, has not made its decision yet, and it will consider your arguments. But I am bound to point out to you that there is no charge in the Indictment or in this case against the Defendant Rosenberg either that he invented his philosophy, or that he held certain philosophical ideas. The

charge against him is that he made a certain use of his philosophical ideas. That is all I have to say.

The only other matter which I want to mention to you is an application you made for calling Rosenberg, not first, but at some other point in the course of his case; and as to that, if the Tribunal should come to the conclusion that these other philosophical works are not matters which ought to be considered, is it not really unnecessary to put off the calling of the Defendant Rosenberg to some later stage? Would it not be in the interests of expedition that he should be called first?

DR. THOMA: Mr. President, there are two things I might say to that. I was under the erroneous impression that any evidence that is taken must begin with the hearing of the accused. I assumed that documents could not be read prior to that, and that is why I asked that I be allowed to produce some introductory documents first, so that the examination of the Defendant Rosenberg could proceed more smoothly, because in my opinion the Tribunal would become acquainted with the facts much more quickly through the documents. Furthermore, I asked for the Witness Riecke, who could also quickly acquaint you with the Eastern problems and particularly with the food problem and who would expedite matters if he were heard before Rosenberg. That is how I planned it. I would like to read in the first sequence the most important documents first—not only the ideological ones, but all those concerning the Einsatzstab and the administration of the East; then I would like to call the witness Riecke, and after that the Defendant Rosenberg.

THE PRESIDENT: Well, the Tribunal has already indicated that in its opinion, in every ordinary case, it tends to expedition if the defendant is called first; and, of course, any document which is material can be put to the defendant in the course of his evidence for any explanation which he may have to give upon it.

DR. THOMA: I believe, Your Honor, that if I were to make very brief remarks concerning the documents, it would take less time than if Rosenberg dealt with the individual documents. That is why I thought I might read some of the documents at the start, only to save time.

THE PRESIDENT: Well, in order that you should be prepared and able to go on on Monday morning, the Tribunal, having considered this matter, rules that Rosenberg should be called first. That is the ruling of the Tribunal.

As to the documents, we will consider what our judgment shall be with reference to the documents which are objected to.

I said Monday morning. I beg your pardon. I meant at the end of the Defendant Kaltenbrunner's case.



DR. THOMA: Your Honors, I merely wish to say a few words with reference to Rosenberg's ideology. I am asking the Tribunal to read the speech by M. De Menthon, who states that this ideology was in itself criminal since it was related to his activity as editor and publisher of the *Völkischer Beobachter* and as author of the *Myth* and other writings. He says that in this way he psychologically prepared the German nation for an offensive war.

THE PRESIDENT: I said that it was not a question of what was the origin of his philosophy or the mere holding of the philosophical ideas, but the use to which he puts these philosophical ideas. Well, the Tribunal will consider it.

MR. DODD: If Your Honor please, I want to make it clear that we do object to the works of Hellpach. I rather gather that Dr. Dix had asked me to request that his documents be heard today.

THE PRESIDENT: I think it is too late now, but we will consider them shortly if Dr. Dix wishes it. We will consider them very soon.

DR. DIX: I would appreciate that. We discussed it first with Sir David, and then I discussed it with Dr. Dodd and Mr. Albrecht, and these gentlemen have raised objections which should be brought before the Court. But translations have not yet been made, and a decision ought to be made soon, or else the document book will not be ready. I would appreciate it if we could briefly discuss that on Monday.

THE PRESIDENT: We will try to do it on Monday.

DR. DIX: On Monday?

THE PRESIDENT: Yes.

*[The Tribunal adjourned until 15 April 1946 at 1000 hours.]*

# ONE HUNDRED AND EIGHTH DAY

Monday, 15 April 1946

## *Morning Session*

MARSHAL: May it please the Tribunal: The report is made that the Defendant Ribbentrop is absent from this session of the Court.

THE PRESIDENT: I will deal first of all with the documents of the Defendant Rosenberg.

The Tribunal rules that all the documents in Book 1, Volume I and Volume II, should be denied, up to and including the book by Hellpach, that is to say, Exhibits 1 to 6 and also Exhibit 7(e) and Exhibit 8.

Secondly, the Tribunal rules that it will take judicial notice of Exhibits 7(a) to 7(d); but it rules that those exhibits, 7 to 7(d), are not to be read at the present stage but may be quoted by counsel in his final speech.

Thirdly, the Tribunal allows Books 2 and 3.

And fourthly, the Tribunal rules that the Defendant Rosenberg shall be called first and any documents which have been allowed may be put to him in the course of his examination.

That is all.

Now, Dr. Kauffmann.

DR. KAUFFMANN: With the agreement of the Tribunal, I now call the witness Hoess.

*[The witness Hoess took the stand.]*

THE PRESIDENT: Stand up. Will you state your name?

RUDOLF FRANZ FERDINAND HOESS (Witness): Rudolf Franz Ferdinand Hoess.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

*[The witness repeated the oath in German.]*

THE PRESIDENT: Will you sit down?

DR. KAUFFMANN: Witness, your statements will have far-reaching significance. You are perhaps the only one who can throw some light upon certain hidden aspects, and who can tell which people gave the orders for the destruction of European Jewry, and

can further state how this order was carried out and to what degree the execution was kept a secret.

THE PRESIDENT: Dr. Kauffmann, will you kindly put questions to the witness.

DR. KAUFFMANN: Yes.

[Turning to the witness.] From 1940 to 1943, you were the Commander of the camp at Auschwitz. Is that true?

HOESS: Yes.

DR. KAUFFMANN: And during that time, hundreds of thousands of human beings were sent to their death there. Is that correct?

HOESS: Yes.

DR. KAUFFMANN: Is it true that you, yourself, have made no exact notes regarding the figures of the number of those victims because you were forbidden to make them?

HOESS: Yes, that is correct.

DR. KAUFFMANN: Is it furthermore correct that exclusively one man by the name of Eichmann had notes about this, the man who had the task of organizing and assembling these people?

HOESS: Yes.

DR. KAUFFMANN: Is it furthermore true that Eichmann stated to you that in Auschwitz a total sum of more than 2 million Jews had been destroyed?

HOESS: Yes.

DR. KAUFFMANN: Men, women, and children?

HOESS: Yes.

DR. KAUFFMANN: You were a participant in the World War?

HOESS: Yes.

DR. KAUFFMANN: And then in 1922, you entered the Party?

HOESS: Yes.

DR. KAUFFMANN: Were you a member of the SS?

HOESS: Since 1934.

DR. KAUFFMANN: Is it true that you, in the year 1924, were sentenced to a lengthy term of hard labor because you participated in a so-called political murder?

HOESS: Yes.

DR. KAUFFMANN: And then at the end of 1934, you went to the concentration camp of Dachau?

HOESS: Yes.

DR. KAUFFMANN: What task did you receive?

HOESS: At first, I was the leader of a block of prisoners and then I became clerk and finally, the administrator of the property of prisoners.

DR. KAUFFMANN: And how long did you stay there?

HOESS: Until 1938.

DR. KAUFFMANN: What job did you have from 1938 on and where were you then?

HOESS: In 1938 I went to the concentration camp at Sachsenhausen where, to begin with, I was adjutant to the commander and later on I became the head of the protective custody camp.

DR. KAUFFMANN: When were you commander at Auschwitz?

HOESS: I was commander at Auschwitz from May 1940 until December 1943.

DR. KAUFFMANN: What was the highest number of human beings, prisoners, ever held at one time at Auschwitz?

HOESS: The highest number of internees held at one time at Auschwitz, was about 140,000 men and women.

DR. KAUFFMANN: Is it true that in 1941 you were ordered to Berlin to see Himmler? Please state briefly what was discussed.

HOESS: Yes. In the summer of 1941 I was summoned to Berlin to Reichsführer SS Himmler to receive personal orders. He told me something to the effect—I do not remember the exact words—that the Führer had given the order for a final solution of the Jewish question. We, the SS, must carry out that order. If it is not carried out now then the Jews will later on destroy the German people. He had chosen Auschwitz on account of its easy access by rail and also because the extensive site offered space for measures ensuring isolation.

DR. KAUFFMANN: During that conference did Himmler tell you that this planned action had to be treated as a secret Reich matter?

HOESS: Yes. He stressed that point. He told me that I was not even allowed to say anything about it to my immediate superior Gruppenführer Glücks. This conference concerned the two of us only and I was to observe the strictest secrecy.

DR. KAUFFMANN: What was the position held by Glücks whom you have just mentioned?

HOESS: Gruppenführer Glücks was, so to speak, the inspector of concentration camps at that time and he was immediately subordinate to the Reichsführer.

DR. KAUFFMANN: Does the expression "secret Reich matter" mean that no one was permitted to make even the slightest allusion to outsiders without endangering his own life?

HOESS: Yes, "secret Reich matter" means that no one was allowed to speak about these matters with any person and that everyone promised upon his life to keep the utmost secrecy.

DR. KAUFFMANN: Did you happen to break that promise?

HOESS: No, not until the end of 1942.

DR. KAUFFMANN: Why do you mention that date? Did you talk to outsiders after that date?

HOESS: At the end of 1942 my wife's curiosity was aroused by remarks made by the then Gauleiter of Upper Silesia, regarding happenings in my camp. She asked me whether this was the truth and I admitted that it was. That was my only breach of the promise I had given to the Reichsführer. Otherwise I have never talked about it to anyone else.

DR. KAUFFMANN: When did you meet Eichmann?

HOESS: I met Eichmann about 4 weeks after having received that order from the Reichsführer. He came to Auschwitz to discuss the details with me on the carrying out of the given order. As the Reichsführer had told me during our discussion, he had instructed Eichmann to discuss the carrying out of the order with me and I was to receive all further instructions from him.

DR. KAUFFMANN: Will you briefly tell whether it is correct that the camp of Auschwitz was completely isolated, describing the measures taken to insure as far as possible the secrecy of carrying out of the task given to you.

HOESS: The Auschwitz camp as such was about 3 kilometers away from the town. About 20,000 acres of the surrounding country had been cleared of all former inhabitants, and the entire area could be entered only by SS men or civilian employees who had special passes. The actual compound called "Birkenau," where later on the extermination camp was constructed, was situated 2 kilometers from the Auschwitz camp. The camp installations themselves, that is to say, the provisional installations used at first were deep in the woods and could from nowhere be detected by the eye. In addition to that, this area had been declared a prohibited area and even members of the SS who did not have a special pass could not enter it. Thus, as far as one could judge, it was impossible for anyone except authorized persons to enter that area.

DR. KAUFFMANN: And then the railway transports arrived. During what period did these transports arrive and about how many people, roughly, were in such a transport?

HOESS: During the whole period up until 1944 certain operations were carried out at irregular intervals in the different countries, so that one cannot speak of a continuous flow of incoming transports.

It was always a matter of 4 to 6 weeks. During those 4 to 6 weeks two to three trains, containing about 2,000 persons each, arrived daily. These trains were first of all shunted to a siding in the Birkenau region and the locomotives then went back. The guards who had accompanied the transport had to leave the area at once and the persons who had been brought in were taken over by guards belonging to the camp.

They were there examined by two SS medical officers as to their fitness for work. The internees capable of work at once marched to Auschwitz or to the camp at Birkenau and those incapable of work were at first taken to the provisional installations, then later to the newly constructed crematoria.

DR. KAUFFMANN: During an interrogation I had with you the other day you told me that about 60 men were designated to receive these transports, and that these 60 persons, too, had been bound to the same secrecy described before. Do you still maintain that today?

HOESS: Yes, these 60 men were always on hand to take the internees not capable of work to these provisional installations and later on to the other ones. This group, consisting of about ten leaders and subleaders, as well as doctors and medical personnel, had repeatedly been told, both in writing and verbally, that they were bound to the strictest secrecy as to all that went on in the camps.

DR. KAUFFMANN: Were there any signs that might show an outsider who saw these transports arrive, that they would be destroyed or was that possibility so small because there was in Auschwitz an unusually large number of incoming transports, shipments of goods and so forth?

HOESS: Yes, an observer who did not make special notes for that purpose could obtain no idea about that because to begin with not only transports arrived which were destined to be destroyed but also other transports arrived continuously, containing new internees who were needed in the camp. Furthermore, transports likewise left the camp in sufficiently large numbers with internees fit for work or exchanged prisoners.

The trains themselves were closed, that is to say, the doors of the freight cars were closed so that it was not possible, from the outside, to get a glimpse of the people inside. In addition to that, up to 100 cars of materials, rations, *et cetera*, were daily rolled into the camp or continuously left the workshops of the camp in which war material was being made.

DR. KAUFFMANN: And after the arrival of the transports were the victims stripped of everything they had? Did they have to undress completely; did they have to surrender their valuables? Is that true?

HOESS: Yes.

DR. KAUFFMANN: And then they immediately went to their death?

HOESS: Yes.

DR. KAUFFMANN: I ask you, according to your knowledge, did these people know what was in store for them?

HOESS: The majority of them did not, for steps were taken to keep them in doubt about it and suspicion would not arise that they were to go to their death. For instance, all doors and all walls bore inscriptions to the effect that they were going to undergo a delousing operation or take a shower. This was made known in several languages to the internees by other internees who had come in with earlier transports and who were being used as auxiliary crews during the whole action.

DR. KAUFFMANN: And then, you told me the other day, that death by gassing set in within a period of 3 to 15 minutes. Is that correct?

HOESS: Yes.

DR. KAUFFMANN: You also told me that even before death finally set in, the victims fell into a state of unconsciousness?

HOESS: Yes. From what I was able to find out myself or from what was told me by medical officers, the time necessary for reaching unconsciousness or death varied according to the temperature and the number of people present in the chambers. Loss of consciousness took place within a few seconds or a few minutes.

DR. KAUFFMANN: Did you yourself ever feel pity with the victims, thinking of your own family and children?

HOESS: Yes.

DR. KAUFFMANN: How was it possible for you to carry out these actions in spite of this?

HOESS: In view of all these doubts which I had, the only one and decisive argument was the strict order and the reason given for it by the Reichsführer Himmler.

DR. KAUFFMANN: I ask you whether Himmler inspected the camp and convinced himself, too, of the process of annihilation?

HOESS: Yes. Himmler visited the camp in 1942 and he watched in detail one processing from beginning to end.

DR. KAUFFMANN: Does the same apply to Eichmann?

HOESS: Eichmann came repeatedly to Auschwitz and was intimately acquainted with the proceedings.

DR. KAUFFMANN: Did the Defendant Kaltenbrunner ever inspect the camp?

HOESS: No.

DR. KAUFFMANN: Did you ever talk with Kaltenbrunner with reference to your task?

HOESS: No, never. I was with Obergruppenführer Kaltenbrunner on only one single occasion.

DR. KAUFFMANN: When was that?

HOESS: That was one day after his birthday in the year 1944.

DR. KAUFFMANN: What position did you hold in the year 1944?

HOESS: In the year 1944 I was the head of Department E-1 in the Main Economic and Administrative Office in Berlin. My office was the former Inspectorate of Concentration Camps at Oranienburg.

DR. KAUFFMANN: And what was the subject of that conference which you have just mentioned?

HOESS: It concerned a report from the camp at Mauthausen on the so-called nameless internees and their engagement in armament industry. Obergruppenführer Kaltenbrunner was to make a decision on the matter. For that reason I came to him with the report from the commander at Mauthausen but he did not make a decision telling me he would do so later.

DR. KAUFFMANN: Regarding the location of Mauthausen, will you please state in which district Mauthausen is situated. Is that Upper Silesia or is it the Government General?

HOESS: Mauthausen . . .

DR. KAUFFMANN: Auschwitz, I beg your pardon, I made a mistake. I mean Auschwitz.

HOESS: Auschwitz is situated in the former state of Poland. Later, after 1939, it was incorporated in the province of Upper Silesia.

DR. KAUFFMANN: Is it right for me to assume that administration and feeding of concentration camps were exclusively under the control of the Main Economic and Administrative Office?

HOESS: Yes.

DR. KAUFFMANN: A department which is completely separated from the RSHA?

HOESS: Quite correct.

DR. KAUFFMANN: And then from 1943 until the end of the war, you were one of the chiefs in the Inspectorate of the Main Economic and Administrative Office?

HOESS: Yes, that is correctly stated.

DR. KAUFFMANN: Do you mean by that, that you are particularly well informed on everything occurring in concentration camps regarding the treatment and the methods applied?



HOESS: Yes.

DR. KAUFFMANN: I ask you, therefore, first of all, whether you have any knowledge regarding the treatment of internees, whether certain methods became known to you according to which they were tortured and cruelly treated? Please formulate your statement according to periods, up to 1939 and after 1939.

HOESS: Until the outbreak of war in 1939, the situation in the camps regarding feeding, accommodations, and treatment of internees, was the same as in any other prison or penitentiary in the Reich. The internees were treated severely, but methodical beatings or ill-treatments were out of the question. The Reichsführer gave frequent orders that every SS man who laid violent hands on an internee would be punished; and several times SS men who did ill-treat internees were punished.

Feeding and billeting at that time were on the same basis as those of other prisoners under legal administration.

The accommodations in the camps during those years were still normal because the mass influxes at the outbreak of the war and during the war had not yet taken place. When the war started and when mass deliveries of political internees arrived, and, later on, when prisoners who were members of the resistance movements arrived from the occupied territories, the construction of buildings and the extensions of the camps could no longer keep pace with the number of incoming internees. During the first years of the war this problem could still be overcome by improvising measures; but later, due to the exigencies of the war, this was no longer possible since there were practically no building materials any more at our disposal. And, furthermore, rations for the internees were again and again severely curtailed by the provincial economic administration offices.

This then led to a situation where internees in the camps no longer had the staying power to resist the now gradually growing epidemics.

The main reason why the prisoners were in such bad condition towards the end of the war, why so many thousands of them were found sick and emaciated in the camps, was that every internee had to be employed in the armament industry to the extreme limit of his forces. The Reichsführer constantly and on every occasion kept this goal before our eyes, and also proclaimed it through the Chief of the Main Economic and Administrative Office, Obergruppenführer Pohl, to the concentration camp commanders and administrative leaders during the so-called commanders' meetings.

Every commander was told to make every effort to achieve this. The aim was not to have as many dead as possible or to destroy

as many internees as possible; the Reichsführer was constantly concerned with being able to engage all forces available in the armament industry.

DR. KAUFFMANN: There is no doubt that the longer the war lasted, the larger became the number of the ill-treated and tortured inmates. Whenever you inspected the concentration camps did you not learn something of this state of affairs through complaints, *et cetera*, or do you consider that the conditions which have been described are more or less due to excesses?

HOESS: These so-called ill-treatments and this torturing in concentration camps, stories of which were spread everywhere among the people, and later by the prisoners that were liberated by the occupying armies, were not, as assumed, inflicted methodically, but were excesses committed by individual leaders, subleaders, and men who laid violent hands on internees.

DR. KAUFFMANN: Do you mean you never took cognizance of these matters?

HOESS: If in any way such a case came to be known, then the perpetrator was, of course, immediately relieved of his post or transferred somewhere else. So that, even if he were not punished for lack of evidence to prove his guilt, even then, he was taken away from the internees and given another position.

DR. KAUFFMANN: To what do you attribute the particularly bad and shameful conditions, which were ascertained by the entering Allied troops, and which to a certain extent were photographed and filmed?

HOESS: The catastrophic situation at the end of the war was due to the fact that, as a result of the destruction of the railway network and of the continuous bombing of the industrial plants, care for these masses—I am thinking of Auschwitz with its 140,000 internees—could no longer be assured. Improvised measures, truck columns, and everything else tried by the commanders to improve the situation were of little or no avail; it was no longer possible. The number of the sick became immense. There were next to no medical supplies; epidemics raged everywhere. Internees who were capable of work were used over and over again. By order of the Reichsführer, even half-sick people had to be used wherever possible in industry. As a result every bit of space in the concentration camps which could possibly be used for lodging was overcrowded with sick and dying prisoners.

DR. KAUFFMANN: I am now asking you to look at the map which is mounted behind you. The red dots represent concentration camps. I will first ask you how many concentration camps as such existed at the end of the war?

HOESS: At the end of the war there were still 13 concentration camps. All the other points which are marked here on the map mean so-called labor camps attached to the armament industry situated there. The concentration camps, of which there are 13 as I have already said, were the center and the central point of some district, such as the camp at Dachau in Bavaria, or the camp of Mauthausen in Austria; and all the labor camps in that district were under the control of the concentration camp. That camp had then to supply these outside camps, that is to say, they had to supply them with workers, exchange the sick inmates and furnish clothing; the guards, too, were supplied by the concentration camp.

From 1944 on, the supplying of food was almost exclusively a matter of the individual armament industries in order to give the prisoners the benefit of the wartime supplementary rations.

DR. KAUFFMANN: What became known to you about so-called medical experiments on living internees?

HOESS: Medical experiments were carried out in several camps. For instance, in Auschwitz there were experiments on sterilization carried out by Professor Klaubert and Dr. Schumann; also experiments on twins by SS medical officer Dr. Mengele.

DR. KAUFFMANN: Do you know the medical officer Dr. Rascher?

HOESS: In Dachau he was a medical officer of the Luftwaffe who carried out experiments, on internees who had been sentenced to death, about the resistance of the human body to cold and in high pressure chambers.

DR. KAUFFMANN: Can you tell whether such experiments carried out within the camp were known to a large circle?

HOESS: Such experiments, just like all other matters, were, of course, called "secret Reich matters." However, it could not be avoided that the experiments became known since they were carried out in a large camp and must have been seen in some way by the inmates. I cannot say, however, to what extent the outside world learned about these experiments.

DR. KAUFFMANN: You explained to me that orders for executions were received in the camp at Auschwitz, and you told me that until the outbreak of war such orders were few, but that later on they became more numerous. Is that correct?

HOESS: Yes. There were hardly any executions until the beginning of the war—only in particularly serious cases. I remember one case in Buchenwald where an SS man had been attacked and beaten to death by internees, and the internees were later hanged.

DR. KAUFFMANN: But during the war—and that you will admit—the number of executions increased, and not inconsiderably.

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HOESS: That had already started with the beginning of the war.

DR. KAUFFMANN: Was the basis for these execution orders in many cases a legal sentence of German courts?

HOESS: No. Orders for the executions carried out in the camps came from the RSHA.

DR. KAUFFMANN: Who signed the orders for executions which you received? Is it correct that occasionally you received orders for executions which bore the signature "Kaltenbrunner," and that these were not the originals but were teleprints which therefore had the signature in typewritten letters?

HOESS: It is correct. The originals of execution orders never came to the camps. The original of these orders either arrived at the Inspectorate of the Concentration Camps, from where they were transmitted by teletype to the camps concerned, or, in urgent cases, the RSHA sent the orders directly to the camps concerned, and the Inspectorate was then only informed, so that the signatures in the camps were always only in teletype.

DR. KAUFFMANN: So as to again determine the signatures, will you tell the Tribunal whether the overwhelming majority of all execution orders either bore the signature of Himmler or that of Müller in the years before the war and until the end of the war.

HOESS: Only very few teletypes which I have ever seen came from the Reichsführer and still fewer from the Defendant Kaltenbrunner. Most of them, I could say practically all, were signed "Signed Müller."

DR. KAUFFMANN: Is that the Müller with whom you repeatedly talked about such matters as you stated earlier?

HOESS: Gruppenführer Müller was the Chief of Department IV in the RSHA. He had to negotiate with the Inspectorate about all matters connected with concentration camps.

DR. KAUFFMANN: Would you say that you went to see the Gestapo Chief Müller because you, on the strength of your experience, were of the opinion that this man because of his years of activities was acting almost independently?

HOESS: That is quite right. I had to negotiate all matters regarding concentration camps with Gruppenführer Müller. He was informed on all these matters, and in most cases he would make an immediate decision.

DR. KAUFFMANN: Well, so as to have a clear picture, did you ever negotiate these matters with the defendant?

HOESS: No.

DR. KAUFFMANN: Did you learn that towards the end of the war concentration camps were evacuated? And, if so, who gave the orders?

HOESS: Let me explain. Originally there was an order from the Reichsführer, according to which camps, in the event of the approach of the enemy or in case of air attacks, were to be surrendered to the enemy. Later on, due to the case of Buchenwald, which had been reported to the Führer, there was—no, at the beginning of 1945, when various camps came within the operational sphere of the enemy, this order was withdrawn. The Reichsführer ordered the Higher SS and Police Leaders, who in an emergency case were responsible for the security and safety of the camps, to decide themselves whether an evacuation or a surrender was appropriate.

Auschwitz and Gross-Rosen were evacuated. Buchenwald was also to be evacuated, but then the order from the Reichsführer came through to the effect that on principle no more camps were to be evacuated. Only prominent inmates and inmates who were not to fall into Allied hands under any circumstances were to be taken away to other camps. This also happened in the case of Buchenwald. After Buchenwald had been occupied, it was reported to the Führer that internees had armed themselves and were carrying out plunderings in the town of Weimar. This caused the Führer to give the strictest order to Himmler to the effect that in the future no more camps were to fall into the hands of the enemy, and that no internees capable of marching would be left behind in any camp.

This was shortly before the end of the war, and shortly before northern and southern Germany were cut. I shall speak about the Sachsenhausen camp. The Gestapo chief, Gruppenführer Müller, called me in the evening and told me that the Reichsführer had ordered that the camp at Sachsenhausen was to be evacuated at once. I pointed out to Gruppenführer Müller what that would mean. Sachsenhausen could no longer fall back on any other camp except perhaps on a few labor camps attached to the armament works that were almost filled up anyway. Most of the internees would have to be sheltered in the woods somewhere. This would mean countless thousands of deaths and, above all, it would be impossible to feed these masses of people. He promised me that he would again discuss these measures with the Reichsführer. He called me back and told me that the Reichsführer had refused and was demanding that the commanders carry out his orders immediately.

At the same time Ravensbrück was also to be evacuated in the same manner but it could no longer be done. I do not know to

what extent camps in southern Germany were cleared, since we, the Inspectorate, no longer had any connections with southern Germany.

DR. KAUFFMANN: It has been maintained here—and this is my last question—that the Defendant Kaltenbrunner gave the order that Dachau and two auxiliary camps were to be destroyed by bombing or with poison. I ask you, did you hear anything about this; if not, would you consider such an order possible?

HOESS: I have never heard anything about this, and I do not know anything either about an order to evacuate any camps in southern Germany, as I have already mentioned. Apart from that, I consider it quite impossible that a camp could be destroyed by this method.

DR. KAUFFMANN: I have no further questions.

THE PRESIDENT: Do any of the defendants' counsel want to ask any questions?

DR. MERKEL: Witness, did the State Police, as an authority of the Reich, have anything to do with the destruction of Jews in Auschwitz?

HOESS: Yes, insofar as I received all my orders as to the carrying out of that action from the Obersturmführer Eichmann.

DR. MERKEL: Was the administration of concentration camps under the control of the Main Economic and Administrative Office?

HOESS: Yes.

DR. MERKEL: You said already that you had nothing to do with the RSHA.

HOESS: No.

DR. MERKEL: Please, will you emphasize, therefore, that the Gestapo as such had nothing to do with the administration of the camps or the accommodation, feeding, and treatment of the internees, but that this was exclusively a matter for the Main Economic and Administrative Office?

HOESS: Yes, that is quite correct.

DR. MERKEL: How do you explain it then that you, nevertheless, discussed different questions concerning concentration camps with Müller?

HOESS: The RSHA, or rather Amt IV, had the executive power for the directing of all internees into camps, classification into the camp grades 1, 2, 3, and furthermore, the punishments which were to be carried out on the part of the RSHA. Executions, the accommodation of special internees, and all question which might ensue therefrom were also taken care of by the RSHA or Amt IV.

DR. MERKEL: When was this Main Economic and Administrative Office created?

HOESS: The Main Economic and Administrative Office existed since 1933 under various names. The Inspectorate of Concentration Camps was, however, subordinated only to this Main Economic and Administrative Office since the year 1941.

DR. MERKEL: Then these concentration camps were from the very beginning under the control of this Main Economic and Administrative Office, that is to say the SS and not the State Police.

HOESS: Yes.

DR. MERKEL: You mentioned the name of Dr. Rascher a while ago. Do you know this doctor personally?

HOESS: Yes.

DR. MERKEL: Do you know that Dr. Rascher before beginning his work at Dachau had become a member of the SS?

HOESS: No, I know nothing about that. I only know that later he—I still saw him in the uniform of an Air Force medical officer. Later he was supposed to have been taken over into the SS, but I did not see him again.

DR. MERKEL: I have no further questions. Thank you very much.

HERR LUDWIG BABEL (Counsel for SS): Witness, at the beginning of your examination you stated that when you were ordered to the Reichsführer SS Himmler, he told you that the carrying out of this order of the Führer was to be left to the SS and that the SS had been ordered to do it. What is to be understood under this general title SS?

HOESS: According to the explanations of the Reichsführer, this could only mean the men guarding the concentration camps. According to the nature of the order only concentration camp crews and not the Waffen-SS could be concerned with the carrying out of this task.

HERR BABEL: How many members of the SS were assigned to concentration camps, and which units did they belong to?

HOESS: Toward the end of the war there were approximately 35,000 SS men and in my estimation approximately 10,000 men from the Army, Air Force, and the Navy detailed to the labor camps for guard duties.

HERR BABEL: What were the tasks of these guards? As far as I know, the duties varied. First, there was the actual guarding and then there was a certain amount of administrative work within the camp.

HOESS: Yes, that is correct.

HERR BABEL: How many guards were there within the camps for, let us say, 1,000 internees?

HOESS: You cannot estimate it in that way. According to my observations about 10 percent of the total number of guarding personnel were used for internal duties, that is to say, administration and supervision of internees within the camp, including the medical personnel of the camp.

HERR BABEL: So that 90 percent were therefore used for the exterior guarding, that is to say, for watching the camp from watch towers and for escorting the internees on work assignments.

HOESS: Yes.

HERR BABEL: Did you make any observations as to whether there was any ill-treatment of prisoners to a greater or lesser degree on the part of those guards, or whether the ill-treatment was mainly to be traced back to the so-called Kapos?

HOESS: If any ill-treatment of prisoners by guards occurred—I myself have never observed any—then this was possible only to a very small degree since all offices in charge of the camps took care that as few SS men as possible had direct contact with the inmates, because in the course of the years the guard personnel had deteriorated to such an extent that the standards formerly demanded could no longer be maintained.

We had thousands of guards who could hardly speak German, who came from all lands as volunteers and joined these units, or we had older men, between 50 and 60, who lacked all interest in their work, so that a camp commander had to watch constantly that these men fulfilled even the lowest requirements of their duties. It is obvious that there were elements among them who would ill-treat internees, but this ill-treatment was never tolerated.

Besides, it was impossible to have these masses of people directed at work or when in the camp by SS men only; therefore, inmates had to be assigned everywhere to direct the other prisoners and set them to work. The internal administration of the camp was almost completely in their hands. Of course a great deal of ill-treatment occurred which could not be avoided because at night there were hardly any members of the SS in the camps. Only in specific cases were SS men allowed to enter the camp, so that the internees were more or less exposed to these Kapos.

HERR BABEL: You have already mentioned regulations which existed for the guards, but there was also a standing order in each camp. In this camp order certainly punishment was provided for internees who violated the camp rules. What punishment was provided?



HOESS: First of all, transfer to a penal company (Strafkompagnie), that is to say, harder work and restricted accommodations; next, detention in the cell block, detention in a dark cell; and in very serious cases, chaining or strapping. Punishment by strapping was prohibited in the year 1942 or 1943—I cannot say exactly when—by the Reichsführer. Then there was the punishment of standing at the camp gate over a rather long period, and finally corporal punishment.

However, no commander could decree this corporal punishment on his own authority. He could only apply for it. In the case of men, the decision came from the Inspector of Concentration Camps, Gruppenführer Schmidt, and where women were concerned, the Reichsführer reserved the decision exclusively for himself.

HERR BABEL: It may also be known to you that for members of the SS, too, there were two penal camps which sometimes were called concentration camps, namely, Dachau and Danzig-Matzkau.

HOESS: That is right.

HERR BABEL: Were the existing camp regulations and the treatment of members of the SS who were put in such camps different from the regulations applying to the other concentration camps?

HOESS: Yes; these two detention camps were not under the Inspectorate for Concentration Camps, but they were under an SS and Police court. I myself have neither inspected nor seen these two camps.

HERR BABEL: So that you know nothing about the standing orders relating to those camps?

HOESS: I know nothing about them.

HERR BABEL: I have no further questions to the witness.

THE PRESIDENT: The Tribunal will adjourn for 10 minutes.

*[A recess was taken.]*

DR. HAENSEL: I have a question that I would like to ask the High Tribunal. A second defense counsel has been requested for the SS. Is it permitted that several questions be put for the second defense counsel?

THE PRESIDENT: The Tribunal ruled a long time ago that only one counsel could be heard.

DR. HAENSEL: Yes.

FLOTTENRICHTER OTTO KRANZBÜHLER (Counsel for Defendant Dönitz): Witness, you just mentioned that members of the Navy were detailed to guard concentration camps.

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HOESS: Yes.

FLOTTENRICHTER KRANZBÜHLER: Were these concentration camps, or were they labor camps?

HOESS: They were labor camps.

FLOTTENRICHTER KRANZBÜHLER: Are labor camps barracks camps of the armament industries?

HOESS: Yes, if they were not accommodated in the actual factories themselves.

FLOTTENRICHTER KRANZBÜHLER: I have been informed that soldiers who were to be assigned for guard duty at labor camps were given over to the SS.

HOESS: That is only partially correct. A part of these men—I do not recall the figures—was taken over into the SS. A part was returned to the original unit, or exchanged. Exchanges were continually taking place.

FLOTTENRICHTER KRANZBÜHLER: Thank you.

COL. AMEN: If the Tribunal please, first I would like to submit, on behalf of our British Allies, a series of exhibits pertaining to the Waffen-SS, without reading them. It is merely statistical information with respect to the number of Waffen-SS guards used at the concentration camps.

I ask that the witness be shown Documents D-745 (a-b), D-746 (a-b), D-747, D-748, D-749 (b), and D-750, one of them being a statement of this witness.

*[The documents were submitted to the witness.]*

Witness, you made the statement, D-749 (b), which has been handed to you?

HOESS: Yes.

COL. AMEN: And you are familiar with the content of the others?

HOESS: Yes.

COL. AMEN: And you testify that those figures are true and correct?

HOESS: Yes.

COL. AMEN: Very good. Those will become Exhibit Number USA-810.

Witness, from time to time did any high Nazi officials or functionaries visit the camp at Mauthausen or Dachau while you were there?

HOESS: Yes.

COL. AMEN: Will you state the names of such persons to the Tribunal please?

HOESS: I remember that in 1935 all the Gauleiter inspected Dachau guided by Reichsführer Himmler. I do not remember them individually.

COL. AMEN: Do you recall any of the ministers having visited either of those camps while you were there?

HOESS: Do you mean by this the inspection tour of 1935?

COL. AMEN: At any time while you were at either of those concentration camps.

HOESS: In 1938 Minister Frick was at Sachsenhausen with the Regierungspräsident.

COL. AMEN: Do you recall any other ministers who were there at any time?

HOESS: Not at Sachsenhausen, but at Auschwitz, the Minister of Justice.

COL. AMEN: Who was he?

HOESS: Thierack.

COL. AMEN: And who else? Do you recall any others?

HOESS: Yes, but I do not remember the name for the moment.

COL. AMEN: Well, who?

HOESS: I have already stated that in the record, but at the moment I cannot recall the name.

COL. AMEN: All right. You have testified that many of the execution orders were signed by Müller. Is that correct?

HOESS: Yes.

COL. AMEN: Is it not a fact that all of those execution orders to which you testified were signed by . . .

DR. STEINBAUER: Pardon me, Mr. President, documents have been submitted and the witness is being questioned about the contents. The Defense is not in a position to follow the Prosecution because we do not know the contents of these documents. I request that we receive copies of them.

THE PRESIDENT: Haven't copies of these documents been handed to the defendants?

COL. AMEN: Yes, so I understood. We have copies here. However, five German copies have been distributed.

THE PRESIDENT: Well, the matter can be looked into.

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COL. AMEN: Witness, I was asking you about these execution orders which you testify were signed by Müller. Do you understand?

HOESS: Yes.

COL. AMEN: Is it not a fact that all of these execution orders which you testify were signed by Müller were also signed by order of, or as representative of, the Chief of the RSHA, Kaltenbrunner?

HOESS: Yes. That was on the copies that I had in the originals. Afterwards, when I was employed at Oranienburg, it said underneath, "I. V. Müller"—"in Vertretung Müller" (as representative, Müller).

COL. AMEN: In other words Müller was merely signing as the representative of the Chief of the RSHA, Kaltenbrunner? Is that not correct?

HOESS: I must assume so.

COL. AMEN: And, of course, you know that Müller was a subordinate of the Chief of the RSHA, Kaltenbrunner.

HOESS: Yes.

COL. AMEN: Witness, you made an affidavit, did you not, at the request of the Prosecution?

HOESS: Yes.

COL. AMEN: I ask that the witness be shown Document 3868-PS, which will become Exhibit USA-819.

*[The document was submitted to the witness.]*

COL. AMEN: You signed that affidavit voluntarily, Witness?

HOESS: Yes.

COL. AMEN: And the affidavit is true in all respects?

HOESS: Yes.

COL. AMEN: This, if the Tribunal please, we have in four languages.

*[Turning to the witness.]* Some of the matters covered in this affidavit you have already told us about in part, so I will omit some parts of the affidavit. If you will follow along with me as I read, please. Do you have a copy of the affidavit before you?

HOESS: Yes.

COL. AMEN: I will omit the first paragraph and start with Paragraph 2:

"I have been constantly associated with the administration of concentration camps since 1934, serving at Dachau until 1938; then as Adjutant in Sachsenhausen from 1938 to 1 May

1940, when I was appointed Commandant of Auschwitz. I commanded Auschwitz until 1 December 1943, and estimate that at least 2,500,000 victims were executed and exterminated there by gassing and burning, and at least another half million succumbed to starvation and disease making a total dead of about 3,000,000. This figure represents about 70 or 80 percent of all persons sent to Auschwitz as prisoners, the remainder having been selected and used for slave labor in the concentration camp industries; included among the executed and burned were approximately 20,000 Russian prisoners of war (previously screened out of prisoner-of-war cages by the Gestapo) who were delivered at Auschwitz in Wehrmacht transports operated by regular Wehrmacht officers and men. The remainder of the total number of victims included about 100,000 German Jews, and great numbers of citizens, mostly Jewish, from Holland, France, Belgium, Poland, Hungary, Czechoslovakia, Greece, or other countries. We executed about 400,000 Hungarian Jews alone at Auschwitz in the summer of 1944."

That is all true, Witness?

HOESS: Yes, it is.

COL. AMEN: Now I omit the first few lines of Paragraph 3 and start in the middle of Paragraph 3:

"... prior to establishment of the RSHA, the Secret State Police Office (Gestapo) and the Reich Office of Criminal Police were responsible for arrests, commitments to concentration camps, punishments and executions therein. After organization of the RSHA all of these functions were carried on as before, but pursuant to orders signed by Heydrich as Chief of the RSHA. While Kaltenbrunner was Chief of RSHA orders for protective custody, commitments, punishment, and individual executions were signed by Kaltenbrunner or by Müller, Chief of the Gestapo, as Kaltenbrunner's deputy."

THE PRESIDENT: Just for the sake of accuracy, the last date in Paragraph 2, is that 1943 or 1944?

COL. AMEN: 1944, I believe. Is that date correct, Witness, at the close of Paragraph 2, namely, that the 400,000 Hungarian Jews alone at Auschwitz in the summer of 1944 were executed? is that 1944 or 1943?

HOESS: 1944. Part of that figure also goes back to 1943; only a part. I cannot give the exact figure; the end was 1944, autumn of 1944.

COL. AMEN: Right.

"4. Mass executions by gassing commenced during the summer of 1941 and continued until fall 1944. I personally supervised executions at Auschwitz until first of December 1943 and know by reason of my continued duties in the Inspectorate of Concentration Camps, WVHA, that these mass executions continued as stated above. All mass executions by gassing took place under the direct order, supervision, and responsibility of RSHA. I received all orders for carrying out these mass executions directly from RSHA." Are those statements true and correct, Witness?

HOESS: Yes, they are.

COL. AMEN: "5. On 1 December 1943 I became Chief of Amt I in Amt Group D of the WVHA, and in that office was responsible for co-ordinating all matters arising between RSHA and concentration camps under the administration of WVHA. I held this position until the end of the war. Pohl, as Chief of WVHA, and Kaltenbrunner, as Chief of RSHA, often conferred personally and frequently communicated orally and in writing concerning concentration camps..."

You have already told us about the lengthy report which you took to Kaltenbrunner in Berlin, so I will omit the remainder of Paragraph 5.

"6. The 'final solution' of the Jewish question meant the complete extermination of all Jews in Europe. I was ordered to establish extermination facilities at Auschwitz in June 1941. At that time, there were already in the General Government three other extermination camps: Belzek, Treblinka, and Wolzek. These camps were under the Einsatzkommando of the Security Police and SD. I visited Treblinka to find out how they carried out their exterminations. The camp commandant at Treblinka told me that he had liquidated 80,000 in the course of one-half year. He was principally concerned with liquidating all the Jews from the Warsaw Ghetto. He used monoxide gas, and I did not think that his methods were very efficient. So when I set up the extermination building at Auschwitz, I used Cyklon B, which was a crystallized prussic acid which we dropped into the death chamber from a small opening. It took from 3 to 15 minutes to kill the people in the death chamber, depending upon climatic conditions. We knew when the people were dead because their screaming stopped. We usually waited about one-half hour before we opened the doors and removed the bodies. After the bodies were removed our special Kommandos took off the rings and extracted the gold from the teeth of the corpses."

Is that all true and correct, Witness?

HOESS: Yes.

COL. AMEN: Incidentally, what was done with the gold which was taken from the teeth of the corpses, do you know?

HOESS: Yes.

COL. AMEN: Will you tell the Tribunal?

HOESS: This gold was melted down and brought to the Chief Medical Office of the SS at Berlin.

COL. AMEN:

"7. Another improvement we made over Treblinka was that we built our gas chamber to accommodate 2,000 people at one time whereas at Treblinka their 10 gas chambers only accommodated 200 people each. The way we selected our victims was as follows: We had two SS doctors on duty at Auschwitz to examine the incoming transports of prisoners. The prisoners would be marched by one of the doctors who would make spot decisions as they walked by. Those who were fit for work were sent into the camp. Others were sent immediately to the extermination plants. Children of tender years were invariably exterminated since by reason of their youth they were unable to work. Still another improvement we made over Treblinka was that at Treblinka the victims almost always knew that they were to be exterminated and at Auschwitz we endeavored to fool the victims into thinking that they were to go through a delousing process. Of course, frequently they realized our true intentions and we sometimes had riots and difficulties due to that fact. Very frequently women would hide their children under the clothes, but of course when we found them we would send the children in to be exterminated. We were required to carry out these exterminations in secrecy but of course the foul and nauseating stench from the continuous burning of bodies permeated the entire area and all of the people living in the surrounding communities knew that exterminations were going on at Auschwitz."

Is that all true and correct, Witness?

HOESS: Yes.

COL. AMEN: Now, I will omit Paragraphs 8 and 9, which have to do with the medical experiments as to which you have already testified.

"10. Rudolf Mildner was the chief of the Gestapo at Katowice ... from approximately March 1941 until September 1943. As

such, he frequently sent prisoners to Auschwitz for incarceration or execution. He visited Auschwitz on several occasions. The Gestapo court, the SS Standgericht, which tried persons accused of various crimes, such as escaping prisoners of war, *et cetera*, frequently met within Auschwitz, and Mildner often attended the trial of such persons, who usually were executed in Auschwitz following their sentence. I showed Mildner through the extermination plant at Auschwitz and he was directly interested in it since he had to send the Jews from his territory for execution at Auschwitz.

"I understand English as it is written above. The above statements are true; this declaration is made by me voluntarily and without compulsion; after reading over the statement I have signed and executed the same at Nuremberg, Germany, on the fifth day of April 1946."

Now I ask you, Witness, is everything which I have read to you true to your own knowledge?

HOESS: Yes.

COL. AMEN: That concludes my cross-examination, except for one exhibit that our British allies would like to have in, which is a summary sheet of the exhibits which I introduced at the commencement of the cross-examination. That will be Exhibit Number USA-810. It is a summary of the earlier exhibits that I put in with respect to the Waffen-SS at the commencement of my cross-examination.

Now, I understand, Your Lordship, that both the Soviet and the French delegations have one or two questions which they consider peculiar to their country which they would like to put to this witness.

THE PRESIDENT: General Rudenko, you will remember that the Tribunal was assured by Counsel for the Prosecution that, so far as witnesses were concerned, with the exception of one or two particular defendants, the Prosecution would have only one cross-examination and now, since that assurance was given, this is the second instance when the Prosecution have desired to have more than one cross-examination.

GEN. RUDENKO: This is correct, Mr. President, that the Prosecution did make that statement; however, the Prosecution reserved the right to do otherwise on certain occasions when deemed necessary. Since, in this case, the Prosecution represent four different states, occasions do arise when each of the prosecutors feels that he has the right to ask the defendant or witnesses individual questions particularly interesting to his own country.



THE PRESIDENT: Will you indicate the nature of the questions which the Soviet Prosecution desire to put? I mean the subjects upon which they are. I don't mean the exact questions but the subject.

GEN. RUDENKO: Yes, I understand. Colonel Pokrovsky, who intends to ask the questions, will report on the subject to the Tribunal.

COL. POKROVSKY: May I report to you, Mr. President, that the questions of interest to the Soviet Prosecution are those dealing specifically with the annihilation of millions of Soviet citizens and some details connected with that annihilation. At the request of the French Prosecution, and in order to clarify the contents I would also like to ask two or three questions connected with the documents which in due course were submitted as Document F-709(a) to the Tribunal by the French Prosecution. This is really all there is; however, these questions do have great importance for us.

THE PRESIDENT: Colonel Pokrovsky, the Tribunal, as has just been stated, made the rule, with the assent of the Prosecutors, that in the case of the witnesses there should be one cross-examination. There is nothing in the Charter which expressly gives to the Prosecution the right for each prosecutor to cross-examine and there is, on the other hand, Article 18 which directs the Tribunal to take strict measures to prevent any action which will cause unreasonable delay, and, in the opinion of the Tribunal in the present case, the subject has been fully covered and the Tribunal therefore think it right to adhere to the rules which they have laid down in this case. They will therefore not hear any further cross-examination.

Do you wish to re-examine, Dr. Kauffmann?

DR. KAUFFMANN: I will be very brief.

Witness, in the affidavit which was just read, you said under Point 2 that "at least an additional half million died through starvation and disease." I ask you, when did this take place? Was it towards the end of the war or was this fact observed by you already at an earlier period?

HOESS: No, it all goes back to the last years of the war, that is beginning with the end of 1942.

DR. KAUFFMANN: Under Point 3—do you still have the affidavit before you?

HOESS: No.

DR. KAUFFMANN: May I ask that it be given to the witness again?

*[The document was returned to the witness.]*

Under Point 3, at the end you state that orders for protective custody, commitments, punishments, and special executions were signed by Kaltenbrunner or Müller, Chief of the Gestapo, as Kaltenbrunner's deputy. Thus, do you wish to contradict what you stated previously?

HOESS: No, this only completes what I said over and again. I read only a few decrees signed by Kaltenbrunner; most of them were signed by Müller.

DR. KAUFFMANN: Under Point 4, at the end, you state:

"All mass executions through gassing took place under the direct order, supervision, and responsibility of RSHA. I received all orders for carrying out these mass executions directly from RSHA."

According to the statements which you previously made to the Tribunal, this entire action came to you directly from Himmler through Eichmann, who had been personally delegated. Do you maintain that now as before?

HOESS: Yes.

DR. KAUFFMANN: With this last sentence under Point 4, do you wish to contradict what you testified before?

HOESS: No. I always mean regarding mass executions, Obersturmbannführer Eichmann in connection with the RSHA.

DR. KAUFFMANN: Under Point 7, at the end, you state—I am not going to read it—you were saying that even though exterminations took place secretly, the population in the surrounding area noticed something of the extermination of people. Did not, at an earlier period of time—that is, before the beginning of this special extermination action—something of this nature take place to remove people who had died in a normal manner in Auschwitz?

HOESS: Yes, when the crematoria had not yet been built we burned in large pits a large part of those who had died and who could not be cremated in the provisional crematoria of the camp; a large number—I do not recall the figure anymore—were placed in mass graves and later also cremated in these graves. That was before the mass executions of Jews began.

DR. KAUFFMANN: Would you agree with me if I were to say that from the described facts alone, one could not conclusively prove that this was concerned with the extermination of Jews?

HOESS: No, this could in no way be concluded from that. The population...

THE PRESIDENT: What was your question about?

DR. KAUFFMANN: My question was whether one could assume from the established facts—at the end of Paragraph 7—that this

concerned the so-called extermination of Jews. I tied this question to the previous answer of the witness. It is my last question.

THE PRESIDENT: The last sentence of Paragraph 7 is with reference to the foul and nauseating stench. What is your question about that?

DR. KAUFFMANN: Whether the population could gather from these things that an extermination of Jews was taking place.

THE PRESIDENT: That really is too obvious a question, isn't it? They could not possibly know who it was being exterminated.

DR. KAUFFMANN: That is enough for me. I have no further questions.

DR. PANNENBECKER: I ask the Tribunal's permission to ask a few supplementary questions, for during cross-examination the witness stated that the Defendant Frick had visited the concentration camps Sachsenhausen and Oranienburg in 1938.

Witness, when an inspection of the concentration camp of Oranienburg took place at that time, 1937-38, was there any evidence at all of atrocities?

HOESS: No.

DR. PANNENBECKER: Why not?

HOESS: Because there was no question of atrocities at that time.

DR. PANNENBECKER: Is it correct that at that period of time the concentration camp at Oranienburg was still a model of order and that agricultural labor was the main occupation?

HOESS: Yes, that is right. However, work was mainly done in workshops, in wood-finishing workshops.

DR. PANNENBECKER: Can you give me any details as to what was shown at that time at such an official visit?

HOESS: Yes. The visiting party was shown through the prisoners' camp proper, inspected the quarters, the kitchen, the hospital, and then all the administrative buildings; above all the workshops, where the inmates were employed.

DR. PANNENBECKER: At that time were the quarters and the hospitals already overcrowded?

HOESS: No, at that time they were normally filled.

DR. PANNENBECKER: How did these quarters look?

HOESS: At that period of time, living quarters looked the same as the barracks of a training ground. The internees still had bed-clothing and all necessary hygienic facilities. Everything was yet in the best of order.

DR. PANNENBECKER: That is all. I have no further questions.

THE TRIBUNAL (Mr. Francis Biddle, Member for the United States): Witness, what was the greatest number of labor camps existing at any one time?

HOESS: I cannot give the exact figure but in my estimation there were approximately 900.

THE TRIBUNAL (Mr. Biddle): What was the population of these 900?

HOESS: I am not able to say that either; the population varied. There were camps with 100 internees and camps with 10,000 internees. Therefore, I cannot give any figure of the total number of people who were in these labor camps.

THE TRIBUNAL (Mr. Biddle): Under whose administration were the labor camps—under what offices?

HOESS: These labor camps, as far as the guarding, direction, and clothing were concerned, were under the control of the Economic and Administration Main Office. All matters dealing with labor output and the supplying of food were attended to by the armament industries which employed these internees.

THE TRIBUNAL (Mr. Biddle): And at the end of the war were the conditions in those labor camps similar to those existing in the concentration camps as you described them before?

HOESS: Yes. Since there no longer was any possibility of bringing ill internees to the main camps, there was much overcrowding in these labor camps and the death rate very high.

THE PRESIDENT: The witness can retire.

*[The witness left the stand.]*

Dr. Kauffmann, does that close your case?

DR. KAUFFMANN: Mr. President, I wish to call another witness with the permission of the Court, the witness Neubacher.

*[The witness Neubacher took the stand.]*

THE PRESIDENT: Will you state your full name?

HERMANN NEUBACHER (Witness): Hermann Neubacher.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

*[The witness repeated the oath in German.]*

THE PRESIDENT: Will you sit down?

DR. KAUFFMANN: Witness, what was your position before the war and during the war?

NEUBACHER: For 5 years during the war I was abroad on diplomatic missions. Before the war I was Mayor of the City of Vienna.

DR. KAUFFMANN: Do you know the Defendant Kaltenbrunner?

NEUBACHER: I do.

DR. KAUFFMANN: How long have you known him?

NEUBACHER: I met Kaltenbrunner for the first time in Austria in 1934 in connection with the so-called appeasement action of the engineer Reinthaller in Austria. Later I saw him again, after the Anschluss.

DR. KAUFFMANN: In the year 1943 Kaltenbrunner was appointed Chief of the RSHA. Are you acquainted with that fact?

NEUBACHER: Yes, I am.

DR. KAUFFMANN: Do you know whether Kaltenbrunner was glad to take this position?

NEUBACHER: Kaltenbrunner told me, I believe at the end of 1943, that he did not wish to take that position, that he had declined three times but then had received a military order to accept. He added that he had requested and had been given a promise to be relieved of this office after the war.

DR. KAUFFMANN: Have you made any observations from which may be deduced how the defendant looked upon his task as Chief of the RSHA?

NEUBACHER: I had a number of conversations with Kaltenbrunner during my official visits to the Main Office from time to time, but they all dealt with foreign intelligence and foreign policy.

DR. KAUFFMANN: The RSHA was in control of the Gestapo; are you familiar with that fact?

NEUBACHER: Yes.

DR. KAUFFMANN: According to your knowledge of the defendant's character can you tell whether he had the prerequisites and the qualifications necessary for the taking over of the police executive?

NEUBACHER: Kaltenbrunner, as far as I was acquainted with him, had no knowledge of police work when he assumed his office. Besides, in the year 1941 he wanted to abandon his police career.

DR. KAUFFMANN: What proofs do you have for this?

NEUBACHER: At that time I was a special representative for economic questions in Romania. Kaltenbrunner told me that he did not like a police career, that he did not understand anything

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about police work and furthermore, had no interest for it. He was interested, however, in foreign political affairs.

THE PRESIDENT: The Tribunal does not think that is really evidence which ought to be given. It cannot affect his official position, the fact he did not like it.

DR. KAUFFMANN: Kaltenbrunner was called the successor of Heydrich. Does this apply to him in the full sense of the word?

NEUBACHER: It cannot, and that I know because...

THE PRESIDENT: That's a matter of argument. This witness' opinion cannot affect the position of Kaltenbrunner. This witness cannot testify whether he was called a successor to Heydrich or another Heydrich.

DR. KAUFFMANN: The Prosecution speak in a disdainful way that Kaltenbrunner was the successor of the ill-famed Heydrich. This witness knows them both, therefore I believe...

THE PRESIDENT: The witness has already admitted that he was the successor of Heydrich. You may ask him if he was another Heydrich.

DR. KAUFFMANN: Please, will you tell whether he was called a second Heydrich?

NEUBACHER: Himmler himself used this expression...

THE PRESIDENT: The Tribunal feels that that is incompetent.

DR. KAUFFMANN: I understand. I now come to the next question:

Is there anything to show just why Himmler selected the Defendant Kaltenbrunner?

NEUBACHER: From remarks which Himmler made to me...

THE PRESIDENT: The Tribunal does not think that the witness can give any evidence as to what Himmler thought. Himmler appointed him.

DR. KAUFFMANN: The witness, so far as I am told, will report something from a conversation with Himmler, which clearly shows that Himmler selected Kaltenbrunner, and no one else, because he did not fear Kaltenbrunner in any way. The Prosecution contend exactly the opposite. He therefore knows that the Prosecution's contention is entirely incorrect.

THE PRESIDENT: The Tribunal thinks you can ask what Himmler said about the appointment, if he said anything to this witness. You can ask him what did Himmler say about the appointment to Kaltenbrunner.

DR. KAUFFMANN: Please begin, Witness.

NEUBACHER: During the course of a conversation with Himmler when I was at his office at headquarters to look at the death mask of Heydrich, Himmler said to me that he had suffered an irreparable loss by the death of this man. After Heydrich, there was not a single person who could any longer direct this gigantic office. That could only be done by the man who had built it up. Upon my question, "What about Kaltenbrunner?" Himmler said as follows:

"Of course as an Austrian you are interested in that matter. Kaltenbrunner will have to become familiar with the work. He is now fully occupied with matters of interest to you, with foreign intelligence."

These were the remarks of Himmler.

DR. KAUFFMANN: Do you have any knowledge of the fact that soon after he assumed office in the year of 1943, Kaltenbrunner assiduously tried to establish contact abroad, because he considered the military situation at that time as hopeless?

NEUBACHER: Kaltenbrunner was, as I know from many conversations, always striving for a so-called "talk with the enemy." He was convinced that we could not come out of this war favorably without the use of some large scale diplomacy. I did not discuss further details with him concerning the war. In Germany everyone was sentenced to death who, even to one other person, expressed a doubt about the victory of Germany.

DR. KAUFFMANN: Did Kaltenbrunner support you in your efforts to mitigate as much as possible the terror policy in Serbia?

NEUBACHER: Yes, I owe much to Kaltenbrunner's support in this respect. The German police offices in Serbia knew, through me and through Kaltenbrunner, that the latter, as Chief of the Foreign Intelligence Service, whole-heartedly supported my policy in the southeast area. I succeeded therefore in making my influence felt in the police offices, and the support from Kaltenbrunner was valuable to me in my endeavors to overthrow, with the help of sensible officers, the former system of collective responsibility and reprisals.

DR. KAUFFMANN: Do you know the basic attitude of Kaltenbrunner towards the Jewish question?

NEUBACHER: Once, I spoke very briefly with Kaltenbrunner about this subject. When rumors of a systematic action swelled up I asked Kaltenbrunner, "Is there any truth in this?" Kaltenbrunner briefly told me that that was a special action which was not under his command. He kept aloof from the action, as far as I could observe,

and later—I believe it was at the beginning or the end of 1944—he told me briefly, that a new course had been adopted in the treatment of the Jews. His voice sounded the pride of his success.

DR. KAUFFMANN: Kaltenbrunner is characterized as “hungry for power.” Do you know what kind of a life he led?

NEUBACHER: Kaltenbrunner led a simple life. He never acquired a fortune...

THE PRESIDENT: The Prosecution has not called him “hungry for power.” There is no charge against him as being “hungry for power.”

DR. KAUFFMANN: Hungry for power and cruel. Both of these words were expressly used.

THE PRESIDENT: But being “hungry for power” or “cruel” is quite different.

DR. KAUFFMANN: Yes, I am just asking about the first term.

THE PRESIDENT: I was just wondering where these terms were used.

DR. KAUFFMANN: The Indictment contains both these terms: “hungry for power” and “cruel”.

THE TRIBUNAL (Mr. Biddle): It certainly is not in the Indictment. We find no allegation in the Indictment which reads “hungry for power and cruel,” and we do not recollect any mention being made in the statement in the Prosecution’s case.

DR. KAUFFMANN: But I would not have had notes taken on it otherwise. In the Indictment there is a page with the heading “Summary and Conclusion.” I am referring to the last paragraph, where it says:

“As all other Nazis, Kaltenbrunner was hungry for power. In order to assure himself of power he signed his name in blood—a name which will remain in memory as a symbol for cruelty, for...”

THE PRESIDENT: Where are you reading from? What are you reading from?

DR. KAUFFMANN: From the Indictment, on the last page, under the heading “Summary and Conclusion.”

MR. DODD: I think I can clarify the matter. It is rather clear that the counsel is reading from my trial brief. The trial brief was never offered in evidence in court, but it was handed to the counsel.

DR. KAUFFMANN: If that will not be maintained I do not need to ask any questions on that point.



I now come to the next question. Do you know, Witness, whether Kaltenbrunner gave an order for the evacuation of concentration camps?

NEUBACHER: No.

DR. KAUFFMANN: Did Kaltenbrunner, from your experience and observations, do everything as chief of this office to mitigate inhuman measures or prevent their application?

NEUBACHER: I must call your attention to the fact that I was abroad for 5 years and could little observe what was happening within Germany. As I have come to know Kaltenbrunner, I do not doubt that he gave way to the illusion that he was able to influence the course of events. He was in no way capable of doing so.

DR. KAUFFMANN: Thus, I come to the last question:

Do you know of a case where he used his power against a measure of the Police to liberate two church dignitaries of the Orthodox Church in Serbia?

NEUBACHER: Yes, I am familiar with that. These two church dignitaries...

THE PRESIDENT: How is this relevant to Kaltenbrunner?

DR. KAUFFMANN: He is accused of having persecuted the churches throughout his whole policy. The Prosecution expressly accuse Kaltenbrunner of persecuting churches, with the annihilation of Christianity as his objective; this I can say with assurance is contained in the records; and it is to this that my question refers.

THE PRESIDENT: The answer to it cannot answer any charge against Kaltenbrunner, can it?

DR. KAUFFMANN: If a defendant tried to exterminate churches, then he would not take a measure exactly opposite to that policy. The witness will be able to attest to this fact.

THE PRESIDENT: With reference to churches or with reference to individual people?

DR. KAUFFMANN: Individual people as representatives of the church of course. I do not believe you can separate the two.

THE PRESIDENT: The Tribunal thinks that the question is incompetent.

DR. KAUFFMANN: Thank you. Then I have concluded my examining of the witness.

THE PRESIDENT: The Tribunal will adjourn.

*[The Tribunal recessed until 1400 hours.]*

## Afternoon Session

*[The witness Neubacher resumed the stand.]*

THE PRESIDENT: Have you finished, Dr. Kauffmann?

DR. KAUFFMANN: My examination of this witness is finished.

THE PRESIDENT: Does any other member of the Defense want to ask questions?

DR. SAUTER: Mr. President, I have some questions to put which are, of course, not in any way connected with Kaltenbrunner, but which refer to subjects which will have to be dealt with later during the case of the Defendant Funk. Since the witness can be called only once, however, I have no other choice than to put to the witness now these questions, which really ought to be put later.

Witness, you said today that the German Foreign Service had sent you to Romania—I believe—on questions of economy. Is it correct that during the time you were working in Romania, you were also representing and handling economic interests in Greece?

NEUBACHER: In the autumn of 1942, notwithstanding my assignment in Romania, I received a special assignment, together with an Italian financial expert, Minister D'Agostino, to prevent by proper methods the total devaluation of currency and the total disruption of the economic structure in Greece.

DR. SAUTER: Witness, were you suited for such a difficult task by training and previous experience? Please tell us briefly, which posts you held before, so that we can judge whether you were capable of carrying out this task in Greece; but please, Witness, be very brief.

NEUBACHER: I was one of the foremost economic leaders in Austria. At the age of 28 I was a director; at 30 I was the general manager of the Viennese Settlement Corporation; and at the age of 33 I was directing a large combine in the building trade and building material industry. I was an executive of the Austrian National Bank and a member of the Austrian Customs Auxiliary Council. I was a member of the Russian Credit Committee of the City of Vienna and a member of the Commission of Experts for the investigation of the collapse of the Austrian Credit Bank Corporation. Therefore, I was qualified for this task by extensive economic experience.

Moreover, I was quite familiar with the economic problems of the Balkans, since I had last worked on economic questions relating to the Balkans in the central finance administration of I. G. Farben in Berlin.

DR. SAUTER: Witness, several days ago when I visited you in prison, I gave you a report of a commission of the Royal Greek

Government, addressed to the International Military Tribunal, and I asked you to read it and state your opinion. Is this report correct?

Mr. President, it is Exhibit USSR-379, and it has the additional Document Number UK-82.

Witness, in this report of the commission the matter is presented as if the economy of Greece had been entirely destroyed by German authorities and that Greece had been plundered, *et cetera*. In the end this reflects on the Defendant Funk. Please do not go into detail, but tell us briefly what is your impression in this connection.

THE PRESIDENT: Yes, General Rudenko.

GEN. RUDENKO: Mr. President, I would like to make the following statement before the Tribunal: In regard to the report of the Greek Government, which was presented before the Tribunal by the Soviet Prosecution as provided by Article 21 of the Charter, it seems to me that the question of the Defense Counsel, asking the witness to give his opinion on this particular matter, should be rejected because the witness is not competent to give an opinion on the report of the Greek Government. The Defense Counsel can ask him a concrete question in regard to any particular fact, but that is all.

DR. SAUTER: Mr. President, if it is desired, I can, of course, put the questions individually. It will probably take a little longer, but if the Soviet Russian Prosecution so desires I agree. May I now question the witness? Witness, is it correct...

THE PRESIDENT: Wait a minute. Dr. Sauter, what exactly is it that you want to ask the witness about this report?

DR. SAUTER: The report of the Greek Government, which has been submitted by the Russian Prosecution, states, for instance, that Germany in its occupation of Greece plundered the country and brought about a famine by exporting an excessive amount of goods. It states that the country was charged excessive occupation costs, and that the country was heavily prejudiced by the clearing system, *et cetera*. Through this witness, who as the economic expert of the German Foreign Office handled these problems in Greece at that time, I propose to prove: First, that these statements are untrue; second, that this state of affairs prevailed already when the German troops marched in and was not created by the German authorities; and, last, that it was the Defendant Funk who tried repeatedly to improve matters for Greece through the clearing system and had considerable amounts of gold brought to Greece.

THE PRESIDENT: Well, can't you put a few short questions to show that the scheme which this witness introduced into Greece was in accordance with international law and was not unfair to Greece? If you could do that, that would meet the case, wouldn't it?

DR. SAUTER: Yes, that is what I wanted to do, and I am sure that the witness would have done so on his own initiative.

Now, then, Witness, are you acquainted with the viewpoint of the German economic authorities, and particularly of the Defendant Funk, in regard to the question of the clearing of debts incurred by Greece and the question of how Greece was to be treated with regard to this clearing system?

NEUBACHER: Concerning the mutual financial charges and obligations, I spoke at one time to the Reich Finance Minister, Schwerin Von Krosigk, and it was proposed that at some later date after the war the claims and counter-claims were to be settled on the basis of a common denominator.

DR. SAUTER: And at that time, during the war, how was the question of this clearing dealt with?

NEUBACHER: Regarding the economic events in Greece, I can give you information based on my own observations only, starting with October 1942. At that time, when I first came to Athens, the Greek currency had already been considerably devaluated, and the circulation of banknotes had increased by something like 3,000 percent.

Greece also suffered an economic set-back due to the fact that, in addition to a progressing inflation, an attempt had been made to introduce in Greece a planned economy with ceiling prices along German lines. The result was, of course, that the merchants selling Greek goods suffered losses when they were paid later. On the other hand, when I arrived there the importers of German goods made tremendous profits, because they paid Reichsmark at the rate of 60 on the clearing and resold the goods at a rate of about 30,000. This chaos, due to the inflation in connection with the attempt of introducing a planned economy on the German pattern, could be remedied only by transforming the black market in Greece into a completely free market. The two experts of the Axis Powers introduced this measure with considerable success at the end of October 1942. Within a few weeks all shops and markets were full of goods and foodstuffs; the prices of food dropped to one-fifth and prices of manufactured products to one-tenth. This success could be maintained for 4 months in spite of increasing inflation.

DR. SAUTER: Dr. Neubacher, is it true that the Defendant Funk, who was Reich Minister of Economy at that time, proposed during a conversation or in correspondence he had had with you that, in spite of the shortage of goods prevailing in Germany, a considerable amount of goods should be sent from Germany and other European countries, particularly to Greece?

NEUBACHER: Reich Minister Funk, with whom I discussed the difficulties of my task, and I both fully agreed that a maximum of goods should be transported to Greece, and certainly not only food. I secured not only 60,000 tons of food at that time but also German export goods, since it was hopeless to try to stop an inflation or the effects of an inflation on the prices, if there were no supplies. Reich Minister Funk supported exports to Greece with the view to a restoration of normal market conditions with every means at his disposal.

DR. SAUTER: You know, Witness, that since transport from Germany to Greece had become impossible, the Defendant Funk made every effort to have goods transported on neutral ships, furnished with British navicerts, from Germany to Greece in order to combat as far as possible the already impending famine.

NEUBACHER: I think that was between 1941 and 1942 when I had not yet arrived in Greece. In 1943, when shipping in Greek waters had completely stopped for us, because all ships had been torpedoed and the railroads had become the object of incessant acts of sabotage and dynamiting, I, with the help of the Swedish Minister, Alar, who directed the International Relief for Greece, applied for British navicerts for food transports to Greece. The British granted this application, and when our own means of transport had ceased to exist, the Swedish boat *Halaren* went from Trieste or Venice to the Piraeus once a month, loaded with German food supplies for Greece.

DR. SAUTER: And Funk, the Reich Minister of Economy at that time, played an important part in these actions, did he not?

NEUBACHER: Reich Minister of Economy Funk took a very positive interest in the Greek question, a question which is unique in the history of economy, and he supported me in my efforts with every means at his disposal.

DR. SAUTER: Witness, do you know anything about the fact that the Defendant Funk advocated in particular that the occupation costs should be kept as low as possible, and that he took the view that it would be preferable that a considerable part of the occupation costs should rather be charged to the German account so that Greece should not be overburdened? What do you know about that?

NEUBACHER: I know too little of the details of what happened in Berlin; but at long intervals I reported to Reich Minister Funk about the situation in Greece, and I know that he made my reports the basis for his own interventions. He was perfectly aware of the fact that the Greek economic problem during the war and within the blockade was so infinitely complicated that all efforts had to be made to prevent a complete dissolution of the monetary value and

the economic structure; and he intervened at all times in that respect.

DR. SAUTER: Witness, did Defendant Funk act in such a way that the Greek currency, drachma currency, was devaluated, or that it deteriorated? Or did he, on the contrary, endeavor to back the drachma value, particularly for the purpose of preventing a catastrophic famine? Please state briefly what you know about that.

NEUBACHER: Reich Minister Funk always made every effort in the latter direction. He proved that by enforcing exports to Greece and finally by the grant of a considerable amount of gold for the purpose of slowing down the Greek inflation—which grant, in accordance with the Four Year Plan, involved the gravest sacrifice for Germany.

DR. SAUTER: You say “a considerable amount of gold.” There was very little gold in Germany during the war. Can you tell us how large the amount of gold was which the Defendant Funk sent to Greece at that time for the purpose of backing the drachma to some extent and preventing the impending catastrophe? How large was the amount?

NEUBACHER: All told, one and one third million pounds sterling were invested in Greece and Albania, to my recollection.

DR. SAUTER: One and one third million pounds sterling?

NEUBACHER: Greece and Albania got that amount.

DR. SAUTER: And now, Witness, I have a last question. Is it correct that all these efforts on the part of the German economic management and the German Minister of Economy were often frustrated and foiled, particularly by Greek merchants? To quote just one example, there were cases where German factories sold German engines for 60 drachmas to Greek merchants—that is to say, 60 drachmas which had actually no value—and the Greek merchant sold these same engines which they had bought for 60 drachmas from Germans to the German Armed Forces at 60,000 drachmas apiece. These are supposed to be cases which you discovered and on which you reported to the Defendant Funk, and that is why I am asking you whether that is true.

NEUBACHER: I have the following comment to make about that. It did, in fact, happen, but I want to state that the Greek businessmen had to do that in consequence of inflation and the black market. The Greek people are much too intelligent to be caught up in an inflation. Every child there is a businessman. Therefore, the only possible method for counteracting this obvious speculation, which in itself is not dishonest, was that of converting the black market into a totally free market on sound business lines; and that was the end of these experiments.

DR. SAUTER: This transformation of the black market into a free market, a problem which also played an important part in France, was brought about by your activity in agreement with the Defendant Funk?

NEUBACHER: Yes, I introduced this measure together with my Italian colleague D'Agostino at the end of October 1942.

DR. SAUTER: Thank you very much, Witness.

Mr. President, I have no further questions.

DR. STEINBAUER: Mr. President, Members of the Military Tribunal, for your information I am going to examine the witness on the question of the Anschluss.

Witness, you have described to the Tribunal your economic activities. Were you not active politically as well?

NEUBACHER: I was politically active as the chairman of the Austro-German People's Union.

DR. STEINBAUER: What were the aims of that Austro-German People's Union?

NEUBACHER: The Austro-German People's Union was an organization which stood above parties and religious denominations, and which, in a one-sided manner, aimed at revising the Anschluss prohibition in the peace treaties by solving the question of the Austro-German Anschluss peacefully through plebiscite. In the executive committee of this Austro-German People's Union, all parties were officially represented with the exception of the National Socialist and Communist Parties. The German organization of the same name was under the leadership of the Social Democratic President of the German Reichstag, Paul Loebe.

DR. STEINBAUER: Thank you. I have here a list of the executive committee which is dated 1926. You appear as chairman and Staatsrat Paul Speiser as deputy. Dr. Arthur Seyss-Inquart is named as treasurer, and then there is Dr. Benedikt Kautsky, one Georg Stern, Hofrat and President of the Banks' Association, and a certain Dr. Stolper. Is that correct?

NEUBACHER: Yes.

DR. STEINBAUER: Why did all these members who represented different party lines and religious denominations strive toward the Anschluss at that time?

NEUBACHER: After the conclusion of the Treaties of Versailles and St. Germain, a movement on the broadest basis started in Austria for the union of this country, which was suffering from severe economic depression, with Germany. Men from all parties and all religions joined this movement, as you can see from the names which you, Herr Doctor, have just mentioned.

DR. STEINBAUER: Do you know by which way and under what conditions this was intended in 1918, especially with regard to the position of Vienna as capital of the Reich and seat of the Court?

NEUBACHER: There were no clear ideas about the technical form of such a distant goal; but every Austrian, on the basis of a historically well-founded pride, was agreed that the city of Vienna should rank as the second capital of Germany.

THE PRESIDENT: I am sorry. The Tribunal isn't really concerned with whether or not any Anschluss was desirable, or whether it was just or not. The Tribunal is concerned with whether it was obtained by violence and force. Most of this evidence does not seem to be relevant at all.

DR. STEINBAUER: Mr. President, unfortunately I must say that my opinion differs from that of the Tribunal, because I believe—and that applies not only to the Defendant Seyss-Inquart, but also to the other defendants who participated in the Anschluss, namely, Göring, Ribbentrop, Papen, Neurath—that it is important to know the economic, political, and cultural auspices and the political situation of Austria at the time when these men were striving toward an Anschluss. Therefore, I am of the opinion that it is important to ascertain just what the general attitude was. I have taken the liberty of including in my document book a short historical report to clarify the various views.

Witness, then, in 1938 you became Mayor of the City of Vienna?

NEUBACHER: That was after the Anschluss.

DR. STEINBAUER: At the same time, Seyss-Inquart was Reichsstatthalter for the Gau of Vienna, or rather the State of Austria; is that correct?

NEUBACHER: I became Mayor of Vienna under Seyss-Inquart on the morning of 13 March 1938, when he was still Austrian Federal Chancellor. At that time Seyss-Inquart was Federal Chancellor of Austria.

DR. STEINBAUER: Very well. How long did you remain in office as Mayor of the City of Vienna?

NEUBACHER: According to the Austrian Law, until February 1939. Then Bürckel became Gauleiter and Reichsstatthalter of Vienna, and thereby automatically supreme head of the communal administration. Thus...

DR. STEINBAUER: That is enough. Thank you. And what was the relationship between Seyss-Inquart on the one hand and the Commissioner for the Reichsvereinigung, Bürckel, on the other hand?

NEUBACHER: The relations were notoriously bad. Bürckel disregarded the authority of the Reichsstatthalter, Seyss-Inquart. He



ruled over his head, and he tried by every method of slander, intrigue, and provocation to overthrow Seyss-Inquart and remove him from office. And he succeeded.

DR. STEINBAUER: Thank you. I have no further questions.

THE PRESIDENT: Does the Prosecution wish to question?

COL. AMEN: No.

THE PRESIDENT: No questions?

COL. AMEN: No.

THE PRESIDENT: The witness can retire.

Dr. Kauffmann.

DR. KAUFFMANN: There are still six interrogatories outstanding. I hope that I will be permitted to submit them as soon as they are received; and may I also reserve for myself the right, in connection with the application I made 2 days ago, to apply for some one of the witnesses in writing, that is, witnesses from among those who appear in the affidavits submitted by the Prosecution.

THE PRESIDENT: You mean you want to cross-examine somebody from whom the Prosecution has submitted an affidavit?

DR. KAUFFMANN: Yes.

THE PRESIDENT: Are you speaking of affidavits which have already been put in?

DR. KAUFFMANN: I am speaking of the affidavits which were submitted for the first time 2 days ago.

THE PRESIDENT: Well, the Tribunal thinks you should make up your mind very soon as to whether you want to cross-examine those persons.

DR. KAUFFMANN: Certainly. I intended to put that application to you, but the Tribunal told me to make that application in writing.

THE PRESIDENT: Oh, I see. Very well.

DR. KAUFFMANN: Apart from that, I have finished my case for today.

THE PRESIDENT: Very well.

DR. KAUFFMANN: Thank you.

THE PRESIDENT: Sir David, we understood that Dr. Dix wanted to have the question of his documents settled on behalf of the Defendant Schacht. Did you anticipate that that would take long?

SIR DAVID MAXWELL-FYFE: If I might just consult Mr. Dodd—I don't think it will, but I would just like to verify that, if Your Lordship will allow.

THE PRESIDENT: What does Dr. Dix say?

DR. DIX: I do not think it will take long, perhaps a quarter of an hour. However, I shall have to reply to the Prosecution, and therefore the length of my reply depends upon the length of the statement made by the Prosecution.

THE PRESIDENT: Yes. Well, there would seem to be some advantages in taking it now, because otherwise we have got to stop at some particular time, and we shan't know how long it is going to take. If we take it now, it does not so much matter, and then we could go on with Dr. Thoma afterwards.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases, my friend Mr. Dodd thinks it will take about a half hour.

THE PRESIDENT: Very well. Dr. Thoma, you have no objection to that, have you?

DR. THOMA: No.

THE PRESIDENT: Very well.

MR. DODD: Mr. President, I have before me an index which is submitted by Dr. Dix on behalf of the Defendant Schacht.

First, I assume that I should proceed by taking up the exhibits to which we have objected.

THE PRESIDENT: Yes, I am not sure that I have that index before me. Have you got a copy of it we could have?

MR. DODD: I have just the one copy, which was supplied to us by Dr. Dix.

THE PRESIDENT: Has it been supplied to the Tribunal?

MR. DODD: I don't think so; I don't know.

THE PRESIDENT: Perhaps you could indicate what the documents are without our having them before us. Would you give the numbers when you indicate the documents?

MR. DODD: Yes, Your Honor.

As to the first four documents, Number 1 is a book by Sir Nevile Henderson, *Failure of a Mission*. Number 2 is also an excerpt from that book; so is Number 3. We object to all of those on the ground that they only represent the opinion of Sir Nevile Henderson; they do not recount historical fact. Number 4 is an excerpt from a book written about Dr. Schacht by a man by the name of Karl Bopp. We object to that on the same ground; that it is the opinion of the author and not pertinent here.

Exhibit Number 5 is an excerpt from the book written by Mr. Sumner Welles, *The Time for Decision*. Our objection to this excerpt is based on the same grounds; it contains only an opinion of Mr. Welles and, however valuable in some places, it is incompetent here.

Exhibit Number 6 is the book by Viscount Rothermere which was already passed upon by the Tribunal with respect to the application of the Defendant Göring. We renew the objection that was made at that time, citing again that it is only the opinion of this gentleman and is of no value before this Tribunal.

Exhibit Number 7 is the Messersmith affidavit, which was offered in evidence by the Prosecution. We have no objection to that, of course.

Exhibit Number 8 is also a Prosecution exhibit. No objection.

Number 9, likewise.

Number 10 is an affidavit or declaration by the late Field Marshal Von Blomberg, and we have no objection to that.

Passing on, we have no objection until we reach Exhibit Number 14, Ambassador Dodd's diary—and it is not really an objection there. We ask that we be given the dates of the entries—they have not been given to us thus far—or the pages from the diary from which it is intended to quote.

We go on to Exhibit Number 18. The intervening exhibits, of course, we have no objection to . . .

THE PRESIDENT: Mr. Dodd, I understand this is really a question of what shall be translated, is it not?

MR. DODD: Yes. We are objecting now, because we want to save the labor of the translation.

THE PRESIDENT: Yes. Then you go on to 18.

MR. DODD: Yes. Number 18 consists of three parts: (a), (b), and (c). They are statements of Paul Boncour, of Briand, and of Lord Cecil. They are statements about Germany's right to rearm. We object to them because they are not statements made by officials of any of these governments—of these two governments. No source is given in the excerpt which is to be quoted, and it appears that they are nothing more than opinions, given after these men had retired from office.

Passing on, then, we come to Exhibit Number 33. That is a speech by Dr. Schacht in 1937. Our only question about it—we are not questioning at all its relevancy, of course, but we would like to know whether or not the original is available. We have not been able to find out yet.

Number 34 is a speech by Adolf Hitler. It is very brief, and I am rather loath to make too much objection to it, except that I cannot see its relevancy here. It does not seem to pertain to any of the issues that have been raised in this place, and unless Dr. Dix has something in mind that we have not been apprised of, we would object to it.

THE PRESIDENT: What does it deal with, Mr. Dodd?

MR. DODD: It deals with rearmament, generally; but it does not say anything about Dr. Schacht or any of the allegations here. It seems to be just a general statement about rearmament.

We have an objection to Exhibit Number 37. It is a letter from Dr. Schacht to Mr. Leon Fraser. Our objection is that we would like to know whether or not the original is available; and if it is—why, we would have no objection.

Number 38 is a newspaper article from a newspaper in Zürich, Switzerland about what Dr. Schacht's thoughts were; and we object to that. The author is unknown, to begin with. It is only a newspaper account and seems to be immaterial and unimportant here.

Exhibit Number 39 is a letter written by one Richard Morton, addressed to the Solicitor of the Treasury in Great Britain. It was forwarded here to the General Secretary, I believe. In any event, we object to it on the ground that it is not competent. It purports to tell what Morton thought about Schacht and about some assistance that Morton received from Schacht. We would suggest that if Dr. Schacht's counsellor, Dr. Dix, feels that Morton has really some pertinent and relevant testimony to give here, it could be done by way of an interrogatory. He is in London, and it would be, we submit, a more proper way to proceed, rather than offering this letter, which was written without any direction or basis.

Then we move down to Exhibit Number 49, being correspondence between the publisher of Ambassador Dodd's diary and Sir Nevile Henderson. It is reprinted in the volume containing Dodd's diary. It is rather vague to me just what the relevance of the entry is here, or how it could be shown in that fashion.

THE PRESIDENT: Is it long?

MR. DODD: Not very long, no.

Now, I am a little bit confused about the last few exhibits, running from 54 to 61. We are only informed that 54 is the record of Göring's testimony before this Tribunal, and so on—the record of so and so before the Tribunal: three excerpts from Göring's testimony and four from the statements of Lt. Brady Bryson, made in connection with the Prosecution's presentation of the case against the Defendant Schacht. I, of course, simply say that it is unnecessary to have these translated or do anything more than refer to them. They are already in the record, and I do not know just what Dr. Dix has in mind. I have no objection, of course, to his reference to them or any other such use as he may properly make.

THE PRESIDENT: Are those excerpts long?

MR. DODD: Well, I don't know. It is just a matter of copying them over again from the record. They are already in the record of this Court.

THE PRESIDENT: Yes.

MR. DODD: You see, if Your Honor pleases, I do not have them before me.

That amounts to our view on the applications of Dr. Schacht's counsel at this time. If there are any questions, I should be glad to answer them. I have not gone into much detail here.

THE PRESIDENT: No, that is all right. Dr. Dix can answer now. Yes, Dr. Dix.

DR. DIX: Concerning the objections raised to Numbers 1 to 6, I readily admit to Mr. Dodd that these documents are matters of argument rather than evidence. Schacht will argue the fact that prominent persons abroad represented the same views which were the basis for his entire attitude, including the question of rearmament. He will quote these opinions; and I, too, in my final speech, shall refer to these passages for the purpose of argument. If Mr. Dodd says, therefore, that this is not so much evidence as it is argument, he is right. But, in my opinion we are not now arguing the question of what is to be officially submitted as evidence to the Tribunal according to procedure. We are merely arguing—or rather we are discussing—whether these documents should be translated, so that if Schacht quotes them during his examination, or if I quote them during my speech, the Tribunal would be able to follow the quotation easily. We have observed that the Tribunal—and this seems fairly obvious—prefer the documents which are being quoted here to be submitted in translation so that they can follow exactly. Therefore, regarding Numbers 1 to 6—and, incidentally, the same applies to all the documents contained in Exhibit Number 18—I am not attempting to have them admitted in evidence: I am merely recommending that they be translated in the interest of everyone concerned, so that in case they are quoted the translation can be given to the Tribunal. It is merely a question of being practical. This applies to 1 to 6 and all under 18.

THE PRESIDENT: Dr. Dix, hasn't the Tribunal already ruled that both the document books of Viscount Rothermere and the speech or book by M. Paul Boncour are not to be put in evidence and are not to be referred to?

DR. DIX: I only know of one ruling of the Tribunal to the effect that no arguments regarding the justice or injustice of the Versailles Peace Treaty will be admitted. We shall, of course, obey that ruling of the Tribunal. But we will not quote these passages in order to discuss the justice or injustice of the Versailles Treaty. That is not Schacht's intention or mine. To cite an example:

The Prosecution considers that a certain attitude of Schacht's proves that by backing armament he supported and wanted

aggression. He wants to disprove this by referring to the fact that certain prominent foreigners took the same view, and that these men could not possibly mean to further German aggression by adopting that view. That is only one example. But at any rate the purpose is not to give academic lectures on the justice or injustice of the Versailles Treaty—which I had not intended in any event, since I feel that such arguments would find but deaf ears. It is not my habit to use arguments which I believe will receive no response. May I continue?

Concerning Number 18 may I—I beg to apologize. I have just heard Mr. Dodd's statements, and I must reply at once. I must first assemble the material. I have noted down that under Number 18, which I have just mentioned—and this also applies to Numbers 1 to 6—Mr. Dodd is missing the sources. That may be due to the fact that he has had only the index to the document. The sources and documents are quoted in the actual quotations.

I now turn to Number 37. It is Schacht's letter to a certain Fraser. I understood Mr. Dodd to say that he was raising no objection but that he merely wanted to know where the original document is located. It is a letter from Schacht to Fraser, the late president of the First National Bank. The original of that letter—if it still exists—would be among the papers left by the deceased Mr. Fraser, to which I have no access, nor has any one else.

One moment, Mr. President. Schacht tells me that he has only a copy which bears his signature and, therefore, is a so-called auto-copy. This auto-copy was deposited in Switzerland during the war because of its contents. This auto-copy, signed personally by Schacht, is here, and the copy in the document book has been taken from it. The fact that it is a true copy has been certified by Professor Kraus, and I think that as far as possible it has been adequately identified. So much for Number 37. Then I have made a note regarding Number 34. Just one moment, please. Number 34 is another case where the source was missing. The same applies as above. The source is stated in the document book—namely, *Dokumente der Deutschen Politik*. This compilation has been used a great deal as a source of evidence. Then objections have been raised...

THE PRESIDENT: Dr. Dix, the objection to 34 was not that the original was not available, but it was a speech by Hitler which was about rearmament and did not seem to be relevant.

DR. DIX: Yes, that is correct. Thank you very much, Mr. President.

Mr. Dodd, of course, could not recognize the relevancy of the document. Schacht could recognize it, since he alone knows his inner development. This is a speech of Hitler's in which there is a passage which confirmed the slowly developing suspicion on Schacht's part

that this policy not only would lead to a war of aggression, but that possibly Hitler actually desired the war. This suspicion was particularly roused by this passage in the speech made by Hitler in the Reichstag on 28 February 1938. This speech is an important milestone in presenting Schacht's inner attitude toward Hitler and his policy, beginning with Schacht's adherence in the year 1933 through the turning-point when distrust started and developed into opposition, which was increased to continuous preparations for revolt. For that reason, I believe it is relevant evidence. That is Number 34.

Then there is Number 38. That is the article from the *Basler Nachrichten*. In my opinion it is evidence of the greatest importance. At any rate, I shall fight to my very last breath to have that document admitted. Subject: Before the war—the fight against the war; during the war—the fight and the attempts to bring about an early peace, the fight against the spreading of the war.

In 1941—that is to say, before Russia's entry into the war and before the entry of the United States into this war—Schacht had a conversation with a political economist from the United States, which he did not recollect until an acquaintance sent him the article which had appeared in the *Basler Nachrichten* of 14 January 1946. He said, "Of course, now I remember. Four years ago, in the spring of 1941, I had this conversation with an American political economist." The name, he has still forgotten. This conversation shows once more the efforts he made as late as 1941 to tie threads and get contacts to prevent any spreading of the war, particularly by opening *pour-parlers* with the United States and the men around President Roosevelt.

We have no other evidence to prove the fact that this conversation took place, since we cannot call upon this professor, because Schacht has forgotten his name. But it is the professor himself who is anonymously speaking in this newspaper edition of 14 January 1946.

THE PRESIDENT: Dr. Dix, what is the nature of the conversation which you say is reported in this newspaper?

DR. DIX: It is a fairly long article. Perhaps I may pick out a few points so that the Tribunal can understand the nature of the conversation. The professor relates in this interview that at that time Schacht took an extremely critical attitude toward the National Socialist system of government; that he had pointed out the dangers of maintaining such a system because this would lead to a complete mortification of intellectual activities. Thereupon, he goes on further to tell the professor that this war was entirely senseless, and that, when considered from a higher level, it would be senseless and futile even for a victorious Germany. He explained to the professor that every means should be employed to stop the

war, because in an orderly world—in a world put in order by a just peace—the governments would automatically become liberal. In the end he suggests, therefore, that an attempt should be made at all costs to establish contact between the nations, particularly with representative men from the United States, before Russia and America entered the war.

He goes on to regret that Roosevelt—I beg your pardon—he goes on to name Roosevelt—and his friends—as the very man who could carry out the great task of helping to contrive such a meeting artfully and carefully. It is an attempt, Your Lordship, similar to the one which appears in the letter to Fraser, which I quoted before. Fraser, too, belonged to the closer—at any rate, let us say to these people who had access to President Roosevelt. It is the last desperate effort, relying on the confidence Roosevelt had in him personally, to contribute his part to bring about peace before it was too late.

Such an attitude is, of course, of extraordinary relevancy in rebutting the charge of aggression, and that is why I think that the Tribunal should under any circumstances admit this article as evidence. We cannot, after all, assume that this professor is not telling the truth. Technically, it might be possible to try to discover his name from the *Basler Nachrichten*; but I am afraid that the *Basler Nachrichten* will not disclose the name without having made further enquiries from the professor in America. It is questionable whether he will permit his name to be disclosed, and we may have serious difficulties. Since personal experience shows that the professor's report in the *Basler Nachrichten* is true, then why would he not speak the truth here? Moreover, he is a respected man. That is why I think that this piece of evidence is equivalent to a personal examination of the professor. Therefore, I urge you to admit this document not only for translation but also in evidence. That was Number 38.

As to Morton, I am perfectly agreeable to sending an interrogatory to Morton; but I believe that this would be a superfluous effort. Actually, I need this letter of Morton's only to prove the fact that Lord Montagu Norman, on his return from a BIZ meeting to England in 1939, told this man Morton—who was a respected citizen of Frankfurt am Main, associated with the Metallgesellschaft and later emigrated—that Schacht was in considerable personal danger on account of his political attitude. That is the main fact which I am to prove with this letter, and it is contained in the letter. This letter was not written by Morton to me or to Schacht. It is a letter which was addressed to the Solicitor of the Treasury, and from there it was given to the Prosecution here, and the Prosecution has been kind enough to inform us of the letter. We thought it would be too much trouble to have Morton called as a witness. I am perfectly



willing to draft a questionnaire, but I think it would be a more simple and just as reliable a method if the Tribunal permitted me to quote two short passages from that letter. I am, however, equally prepared to send an interrogatory to London. That is Number 39.

Regarding Number 49, this is correspondence between Sir Nevile Henderson and the editor of the diary of the late Ambassador Dodd. It is of the greatest importance in establishing the reliability of the statements in the Dodd diary, which not I but the Prosecution has quoted repeatedly to the detriment of Schacht, as far as I can remember. In order to prevent any misunderstanding, I should like to emphasize that we are far from questioning the reliability of the late Ambassador Dodd. Both Dr. Schacht and myself knew him personally, and we consider him to be an absolutely honorable man. But the Tribunal know that this diary, which was based on hasty notes made by the ambassador, was edited by his children after his death. Therefore, it is possible that mistakes may occur, bad mistakes. This becomes evident in the correspondence between Sir Nevile Henderson and the editor of the diary, where Sir Nevile Henderson points out that a conversation, or several conversations—which according to the diary Dodd is supposed to have had with him—were quoted quite wrongly. I believe there can be no better proof of the unbiased unreliability of this diary—I repeat, only the unbiased unreliability—than this correspondence between Sir Nevile Henderson and the editor. Therefore, in order to test the credibility of this evidence which was produced by the Prosecution, and to reduce its value to the proper proportion, I ask to have this document admitted in evidence.

Regarding Numbers 54 to 61, I do not intend in any way to introduce evidence by means of these documents. It is perfectly agreeable to me if they are not translated, but the thought I had in mind was merely that of making the work of the Tribunal easier. I will examine Schacht with reference to these passages of Göring's testimony. If the Tribunal believe that it is not necessary to have these excerpts available when they are quoted or if it prefers to use the record only or have the record which is here brought up for use, then of course it will not be necessary to translate these passages. It is, therefore, merely a question of what the Tribunal consider to be the most practical way. We have made the excerpts, and if the Tribunal wish, they will be translated.

Now there is left only the affidavits. Mr. Dodd did not mention them; but I think at the time when Sir David and I discussed the witnesses and affidavits here in court in open session the affidavits had already been admitted by the Tribunal. Of course, reserving the right of the Prosecution to ask counter questions or call the witnesses for cross-examination after having read the documents,

that is their privilege. We have been satisfied with affidavits instead of the personal appearance merely in order to save time; but if the Prosecution wishes these witnesses, from whom we have affidavits, to appear, then, of course, the Defense is perfectly agreeable to this.

THE PRESIDENT: The Tribunal will adjourn now.

[A recess was taken.]

THE PRESIDENT: I will deal first of all with the documents on behalf of the Defendant Schacht.

The following documents will be translated:

Number 7, Number 8, Number 9, Number 14, Number 18, Number 33, Number 34, Number 37, Number 38, Number 39, and Number 49.

With reference to documents 54 to 61, which are already in the record, they will not be translated, but Dr. Dix is requested to give references to those documents in his document book.

Documents 1 to 6 will not be translated at all.

I meant that the documents which I have not alluded to will be translated—the documents which I have not referred to specifically will be translated.

Now, Dr. Thoma.

DR. THOMA: Mr. President, first of all I am submitting copies of the documents which were granted me this morning and which are from Rosenberg's publications—*Tradition and Our Present Age*, *Writings and Speeches*, *Blood and Honor*, *Formation of the Idea*, and *The Myth of the 20th Century*—as evidence of the fact that the defendant did not participate in a conspiracy against the peace and in the psychological preparation for war. These excerpts contain speeches which the defendant made before diplomats, before students, before jurists, and are meant to prove that on these occasions he fought for social peace, and that, in particular, he did not want the battle of ideologies to result in foreign political enmity. In these speeches he advocated respect for all races, spoke against the propaganda for leaving the church, advocated freedom of conscience and a sensible solution of the Jewish problem, even giving certain advantages to Jews. In particular, he called for equality and justice in this matter. I ask the Tribunal to take official notice of these speeches, and with the permission of the Tribunal I call the Defendant Rosenberg to the witness stand.

[The Defendant Rosenberg took the stand.]

THE PRESIDENT: Will you state your full name?

ALFRED ROSENBERG (Defendant): Alfred Rosenberg.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—to speak the pure truth—and withhold and add nothing.

*[The defendant repeated the oath in German.]*

THE PRESIDENT: You may sit down.

DR. THOMA: Mr. Rosenberg, will you please give the Tribunal your personal history.

THE PRESIDENT: Dr. Thoma, you have not given your exhibits any exhibit numbers, have you?

DR. THOMA: Yes, I have. That is Rosenberg-7(a).

THE PRESIDENT: Oh, they have all been numbered?

DR. THOMA: Yes.

THE PRESIDENT: Very well. When you refer to any of the documents, you will give them their exhibit number.

DR. THOMA: Yes, indeed.

*[Turning to the defendant.]* Will you give the Tribunal your personal history...

THE PRESIDENT: Wait one minute, Dr. Thoma. For the purposes of the record, you see, which is contained in the transcript, I think you ought to read out a list of the documents which you are putting in, stating what the exhibit numbers are. Have you got a list there of the documents you are going to offer in evidence?

DR. THOMA: Yes.

THE PRESIDENT: Will you just read it into the record?

DR. THOMA: Exhibit Rosenberg-7, *The Myth of the 20th Century*.

THE PRESIDENT: Yes.

DR. THOMA: Rosenberg-7(a), *Gestaltung der Idee (Formation of the Idea)*; Rosenberg-7(b), Rosenberg, *Blut und Ehre (Blood and Honor)*; Rosenberg-7(c), Rosenberg, *Tradition und Gegenwart (Tradition and Our Present Age)*; Rosenberg-7(d), Rosenberg, *Schriften und Reden (Writings and Speeches)*; and Rosenberg-8, *Völkischer Beobachter*, March and September 1933.

THE PRESIDENT: That one was excluded by the Tribunal. Numbers 7(e) and 8 were excluded.

DR. THOMA: I did not cite 7(e) but Rosenberg-8.

THE PRESIDENT: You cited 8, though.

DR. THOMA: Yes, I mentioned Rosenberg-8, and I beg to apologize.

THE PRESIDENT: Number 8 is excluded, too.

DR. THOMA: Yes.

[Turning to the defendant.] Mr. Rosenberg, please give the Tribunal your personal history.

ROSENBERG: I was born on 12 January 1893 in Reval in Estonia. After having graduated there from high school I began to study architecture in the autumn of 1910 at the Institute of Technology at Riga. When the German-Russian front lines approached in 1915, the Institute of Technology, including the professors and students, was evacuated to Moscow, and there I continued my studies in this capital of Russia. The end of January or the beginning of February 1918 I finished my studies, received a diploma as an engineer and architect, and returned to my native city.

When the German troops entered Reval, I tried to enlist as a volunteer in the German Army, but since I was a citizen of an occupied country, I was not accepted without special recommendation. Since in the future I did not want to live between the frontiers of several countries, I tried to get to Germany.

To the Baltic Germans, notwithstanding their loyalty toward the Russian State, German culture was their intellectual home, and the experience I had had in Russia strengthened my resolution to do everything within my power to help prevent the political movement in Germany from backsliding into Bolshevism. I believed that this movement in Germany, because of the precarious structure of the system of the German Reich, would have meant a tremendous catastrophe. At the end of November 1918 I travelled to Berlin and from there to Munich. Actually, I wanted to take up my profession as an architect, but in Munich I met people who felt the way I did, and I became a staff member of a weekly, which was founded at that time in Munich. I went to work on this weekly paper in January 1918 and have continued in literary work since that time. I lived through the development of the political movement here in Munich until the Räte-Republic in 1919 and its overthrow.

DR. THOMA: You just mentioned Germany as your intellectual home. Will you tell the Tribunal by which studies and by which scientists you were influenced in favor of the German mentality?

ROSENBERG: In addition to my immediate artistic interests in architecture and painting, I had since childhood pursued historical and philosophical studies and thus, of course, instinctively I tended to read Goethe, Herder, and Fichte in order to develop intellectually along these lines. At the same time, I was influenced by the social ideas of Charles Dickens, Carlyle, and, with regard to America, by Emerson. I continued these studies at Riga and, naturally, took up Kant and Schopenhauer and, above all, devoted myself to the study of the philosophy of India and related schools of thought. Later, of course, I studied the prominent European historians of the

history of civilization; Burckhardt and Rohde, Ranke and Treitschke, Mommsen and Schlieffen. Finally, in Munich I started to study modern biology more closely.

DR. THOMA: You frequently mentioned in the course of your speeches "the embodiment of the idea." Was this due to Goethe's influence?

ROSENBERG: Yes, it is a matter of course that the idea, to see the world as an embodiment, goes back to Goethe.

THE PRESIDENT: [*To Dr. Thoma.*] The Tribunal, you see, want you to confine yourself to his own philosophy and not to the origins of these philosophies, insofar as you are referring to philosophical subjects at all.

DR. THOMA: How did you come to the NSDAP and to Hitler in Munich?

ROSENBERG: In May 1919 the publisher of the journal which I mentioned was visited by a man by the name of Anton Drexler, who introduced himself as the chairman of a newly founded German Labor Party. He stated that he advocated ideas similar to those expressed by this journal, and from that time I began to have connections with a very small group of German laborers which had been formed in Munich. There in the autumn of 1919 I also met Hitler.

DR. THOMA: When did you join Hitler?

ROSENBERG: Well, at that time I had an earnest conversation with Hitler, and on that occasion I noticed his broad view of the entire European situation.

He said that in his opinion Europe was at that time in a social and political crisis, such as had not existed since the fall of the ancient Roman Empire. He said that seats of unrest were to be found everywhere in this sphere, and that he was personally striving to get a clear picture from the viewpoint of Germany's restoration to sound conditions. Thereupon, I listened to some of the first speeches by Hitler which were made at small meetings of 40 and 50 people. I believed, above all, a soldier who had been at the front, and who had done his duty silently for 4½ years, had the right to speak now.

At the end of 1919, I entered the Party—not before Hitler, as it is contended here, but later. In this original Party I was assigned Number 625 as a member.

I did not participate in setting up the program. I was present, however, when this program was read and commented upon by Hitler on 24 February 1920.

DR. THOMA: Then you gave a justification for the Party program and probably wanted to solve the problems which referred to the social and political crisis. How did you picture the solution?

ROSENBERG: In response to different inquiries regarding the 25 points of the program, I wrote a commentary at the end of 1922, which has been read to the Tribunal in fragments. Our general attitude at the time may perhaps be stated briefly as follows:

The technical revolution of the 19th Century had certain social and mental consequences. Industrialization and the clamor for profit dominated life and created the industrial state and the metropolis with all its backyards and estrangement from nature and history.

At the turn of the century, many people who wanted to regain their homeland and its history turned against this one-sided movement. The revival of tradition, folk song and folklore of the past, originated with the youth movement of that time. The works of art, for instance, by Professor Schultze-Naumburg and by some poets were a characteristic protest against this one-sided movement of the time, and it is here that National Socialism attempted to gain a foothold—in full consciousness though, that it was a modern movement and not a movement of retrospective sentimentality. It linked itself with the social movement of Stöcker and the national movement of Schönerer in Austria without using them in their entirety as a model.

I should like to add that the name “National Socialism,” I believe, originated in the Sudetenland, and the small German Labor Party was founded under the name of “National Socialist German Labor Party.”

If I may say so, what finally animated us in essence and the reason for our calling ourselves National Socialists—for, you see, many terrible things have been delivered during these 3 months by the Prosecution, but nothing has been said about National Socialism—we were, at the time, aware of the fact that there were two hostile camps in Germany, that in both camps millions of decent Germans were fighting; and we found ourselves facing the problem of what could be acceptable to both these camps from the viewpoint of national unity and what was preventing an understanding between these two camps. In short, at that time as well as later we explained to the proletarian side, that even if the class-conflict had been and still was a factor in social and political life, nevertheless, as an ideological basis and permanent maxim it would mean eternal disunity of the nation. The direction of a movement for social appeasement or any kind of social conflict by an international center was the second decisive obstacle to social reconciliation. The call for social justice, raised generally by labor, was, however, justified, worthy, and necessary. Concerning the bourgeoisie, we believed we

would be able to establish that in some cases the reactionary caste prejudice of privileged circles had worked to the detriment of the people and secondly that the representation of national interests should not be based on privileges of certain classes; on the contrary, the demand for national unity and dignified representation was the right attitude on their part. From this resulted the ideas which Hitler . . .

THE PRESIDENT: Dr. Thoma, would you try to confine the witness to the charges which are against him? The charges against the defendants are not that they attempted to reconstruct Germany, but that they used this form of reconstruction with a view to attacking outside—races and nations outside.

DR. THOMA: But, in my opinion, we have to devote some time to Rosenberg's train of thought to determine the motives for his actions; but I will now ask him this:

Did you realize that these questions of socialism and the questions of labor and capital were in truth international questions? And why did you fight against democracy as a matter of international struggle?

MR. DODD: Mr. President, I think this is a continuation of this same line of examination, and I should like to say that no one in the Prosecution has made any charge against this defendant for what he has thought. I think we are all, as a matter of principle, opposed to prosecuting any man for what he thinks. And I say with great respect that I feel very confident that is the attitude of this Tribunal. Therefore, we think it is entirely unnecessary to spell out whatever thoughts this defendant had on these subjects, or on any other, for that matter.

DR. THOMA: To my knowledge, the defendant is also accused of fighting democracy; and that is why I believe I should put this question to him.

THE PRESIDENT: What is the question?

DR. THOMA: Why he was fighting democracy—why National Socialism and he himself fought against democracy.

THE PRESIDENT: I do not think that has got anything to do with this case. The only question is whether he used National Socialism for the purpose of conducting international offensives.

DR. THOMA: Mr. President, National Socialism as a concept must be dissected into its constituent parts. Since the Prosecution maintains that National Socialism was a fight against democracy, a one-sided stress on nationalism and militarism, he ought now to have the opportunity to say why National Socialism supported militarism, and whether that was actually the case. National Socialism must be analyzed as a concept in order to determine its constituent parts.

THE PRESIDENT: What National Socialism was has already been shown to the Tribunal, and he is not disputing the fact that there was a Führer principle introduced into Germany. There is no question about that, why it was introduced. If it was introduced for solely internal purposes there would be no charge in respect of that. The only charges are that National Socialism was used for the purpose of making aggressive war and perpetrating the other crimes which we have heard of.

DR. THOMA: To my knowledge, the charge of waging a war of aggression was preferred because it was a war against democracy based on nationalism and militarism.

THE PRESIDENT: Democracy outside Germany, not in Germany.

DR. THOMA: Then I should like to ask the defendant how he will answer the charge that National Socialism preached a master-race.

ROSENBERG: I know that this problem is the main point of the Indictment, and I realize that at present, in view of the number of terrible incidents, conclusions are automatically drawn about the past and the reason for the origin of the so-called racial science. I believe, however, that it is of decisive importance in judging this problem to know exactly what we were concerned with.

I have never heard the word "master race" ("Herrenrasse") as often as in this court room. To my knowledge, I did not mention or use it at all in my writings. I leafed through my *Writings and Speeches* again and did not find this word. I spoke only once of super humans as mentioned by Homer, and I found a quotation from a British author, who in writing about the life of Lord Kitchener said the Englishman who had conquered the world had proved himself as a creative superman (Herrenmensch). Then I found the word "master race" ("Herrenrasse") in a writing of the American ethnologist, Madison Grant, and of the French ethnologist, Lapouge.

I would like to admit, however—and not only to admit, but to emphasize—that the word "superman" (Herrenmensch) came to my attention particularly during my activity as Minister in the East—and very unpleasantly—when used by a number of leaders of the administration in the East. Perhaps when we come to the question of the East, I may return to this subject in detail and state what position I took in regard to these utterances which came to my attention. In principle, however, I was convinced that ethnology was, after all, not an invention of the National Socialist movement, but a biological discovery, which was the conclusion of 400 years of European research. The laws of heredity discovered in the 1860's, and rediscovered several decades later, enable us to gain a deeper



insight into history than many other earlier theories. Accordingly, race...

THE PRESIDENT: Dr. Thoma, the defendant is going back now into the origins of the views which he held. Surely, all we have got to consider here is his statement in speeches and in documents and the use to which he put those statements, not as to whether they were 400 years old, or anything of that sort.

DR. THOMA: The defendant just spoke about the racial problem and I will take the opportunity to speak on the so-called Jewish problem as the starting point of this question. I would like to ask the defendant the following question: How was it...

GEN. RUDENKO: Mr. President, already my colleague, Mr. Dodd, pointed out that the Prosecution has submitted to the defendant an accusation stating in concrete terms his crimes: aggressive wars and atrocities. I suppose that the most correct way of carrying on the interrogation of his client on the part of Dr. Thoma would be to ask him questions directly connected with the charges of the Prosecution. I do not suppose that the Tribunal intend to listen to a lecture on the racial theories, National Socialism, or other theories.

DR. THOMA: Mr. President, I shall deal with the individual questions later; but, since the ideology and the philosophy of the Nazis has been called criminal here, I think the Defendant Rosenberg should be given some opportunity to state his views.

[Turning to the defendant.] Of course, it would be better, and perhaps more appropriate, Herr Rosenberg, if you were a little more brief in some respects.

Now I would like to ask the following question: You believed that the so-called Jewish problem in Europe could be solved if the last Jew left the European continent. At that time you stated it was immaterial whether such a program was realized in 5, 10, or 20 years. It was, after all, merely a matter of transport facilities, and, at the time, you thought it advisable to put this question before an international committee. How and why did you arrive at this opinion? I mean to say, how, in your opinion, would the departure of the last Jew from Europe solve the problem?

ROSENBERG: In order to comply with the wish of the Tribunal, I do not want to give a lengthy exposition of my views as evolved from my study of history—I do not at all mean the study of anti-Semitic writings but of Jewish historians themselves.

It seemed to me that after an epoch of generous emancipation in the course of national movements of the 19th Century, an important part of the Jewish nation also found its way back to its own tradition and nature, and more and more consciously segregated itself from other nations. It was a problem which was discussed at many

international congresses, and Buber in particular, one of the spiritual leaders of European Jewry, declared that the Jews should return to the soil of Asia, for only there could the roots of Jewish blood and Jewish national character be found.

But my more radical attitude in the political sphere was due partly to my observations and experiences in Russia and partly to my experiences later in Germany, which seemed to particularly confirm their strangeness. I could not conceive how, at the time when the German soldiers returned, they were greeted by a Jewish university professor who explained that the German soldiers had died on the field of dishonor. I could not understand that lack of reverence could go so far. If it had been but an individual reaction, one could have said that the man had slipped. But in the course of 14 years, it became apparent that it was indeed the expression of a definitely alienating tendency.

DR. THOMA: Herr Rosenberg, I believe we should also discuss the fact that opposition was partly due to the contradiction provoked by certain National Socialist newspaper articles.

ROSENBERG: The statements of the opposite side, as they appeared constantly during these 14 years, had in part already appeared prior to the rise of the National Socialist movement. After all, the incidents of the Räte Republic in Munich and in Hungary took place long before the National Socialist movement was in a position to gain influence.

DR. THOMA: Herr Rosenberg, what did you have to say to the fact that in the first World War 12,000 Jewish soldiers died at the front?

ROSENBERG: Of course, I have always been conscious of the fact that many Jewish-German citizens were assimilated into the German environment, and that in the course of this development many tragic individual cases appeared, and that these, of course, deserved consideration. On the whole, however, this did not involve the entire social and political movement, especially since the leading papers of the so-called democratic parties recognized the increase of unemployment in Germany and suggested that Germans should emigrate to the French colonies, to the Argentine, and to China. Prominent Jewish people and the chairman of the Democratic Party suggested three times quite openly that, in view of the increase of unemployment, Germans should be deported to Africa and Asia. After all, during those 14 years just as many Germans were expelled from Poland as there were Jews in Germany, and the League of Nations took no effective steps against this violation of the pact in favor of the minorities.

DR. THOMA: Herr Rosenberg, you were the leader of the foreign policy office of the Party. What was your function?

ROSENBERG: The Foreign Policy Office was founded in April 1933. After its accession to power, many foreigners came to Germany in order to obtain information about the origin and nature of the National Socialist Party. In order to create an information center for the Party, the Führer assigned me to direct this office. As I said, it was the task of this office to receive foreigners who were interested in these problems, to give them information, to refer them to the proper organizations of the Party and the State, if they were interested in the labor front, the youth problem, the winter aid work, and so forth. We were also interested in working provisionally on certain initial suggestions made to us in the field of foreign trade and, if they deserved support, in transmitting them to those departments of the government particularly concerned.

Furthermore, we studied the foreign press in order to have good archives for future research work and to inform the Party leadership politically by short excerpts from the foreign press. Among other things, I am accused here of having written articles for the Hearst press. On invitation by the Hearst combine, I wrote five or six articles in 1933 or 1934; but, after I had met Hearst once for about 20 minutes at Nauheim, I did not see him or speak to him again. I heard only that the Hearst combine did get into extraordinary difficulties because of the favor shown me by publishing my impartial statements.

DR. THOMA: As the chief of the Foreign Policy Office did you at times take official political steps?

ROSENBERG: In the documents presented here, Document Number 003-PS, 004-PS, and 007-PS, the activity of the Foreign Policy Office had been discussed and submitted; and in regard to this activity I could give a brief summary to the Tribunal and read from the documents.

DR. THOMA: But I would like you to tell us what steps you took as the chief of the Foreign Policy Office to reach a positive agreement among the European nations.

ROSENBERG: Adolf Hitler called a meeting at Bamberg, I believe in 1927, at which he stated his foreign political conviction that at least some nations could have no direct interest in the total extinction of central Europe. By "some nations" he meant particularly England and Italy. After that in wholehearted agreement with him, I tried to find a way to an understanding by personal contacts I had made. Frequently, I had conversations with British Air Force officers of the British Air Forces General Staff. On their invitation I visited

London in 1931, and at that time had purely informal conversations with a number of British personalities.

And when, in 1932, at a meeting of the Royal Academy of Rome, the topic "Europe" was discussed, I was offered an opportunity to speak, and I made a speech about this problem in which I explained that the development of the last centuries had been determined mainly by four nations and states—namely, England, France, Germany, and Italy. I pointed out that, first of all, these four should define their vital interests so that shoulder to shoulder they would defend the ancient and venerable continent of Europe and its traditions. I believed that these fourfold national roots of the rich European culture represented a historical and political legacy. Excerpts of my speech were published, and parts of it with approval have been translated for the Tribunal.

On the last day of the conference, the former British Ambassador to Italy, Sir Rennell Rodd, came to me and told me that he had just left Mussolini who had told him that I, Rosenberg, had spoken the most important words of the conference.

DR. THOMA: Herr Rosenberg, may I ask you, please, to be a little more brief.

ROSENBERG: In May 1933 I was again in London, this time by Hitler's personal order; and I visited a number of British ministers, whose names are not relevant here, and tried again to promote understanding for the sudden and strange development in Germany. My reception was rather reserved, and a number of incidents occurred which showed that the sentiment was very repellent. But that did not prevent me from keeping up these personal contacts and from inviting a great number of British personalities to come to Germany later. It was not within the scope of my assignment to do that.

THE PRESIDENT: Why don't you ask the defendant what the agreement\* was to be about? Why doesn't he tell us what the agreement was to be about instead of going on talking about an agreement in the abstract?

DR. THOMA: Mr. President, I asked the defendant that question because he took steps to come to a positive understanding with England and worked toward that goal. The defendant is accused . . .

THE PRESIDENT: But what was the understanding about?

DR. THOMA: We were concerned with the fact that the defendant went to London in order to . . .

\* The President's question is in response to the foregoing answer of the Defendant Rosenberg, in which the interpreter said "to bring about an agreement" instead of "to promote understanding".

THE PRESIDENT: I want you to ask the defendant. I don't want you to tell me.

DR. THOMA: I have just asked him, Mr. President.

The defendant is accused of having participated in the Norwegian action, in that he advocated the violation of Norwegian neutrality.

[Turning to the witness.] Please answer the question. How did you meet Quisling?

ROSENBERG: I met Quisling in the year 1933, when he visited me, and I had a discussion of 20 minutes' duration with him. Subsequently, an assistant of mine, who was interested in Scandinavian culture and had written books about it, corresponded with Quisling. It was all of 6 years before I saw Quisling again, and I did not intervene either in the Norwegian political situation or in the Quisling movement until he visited me in June of 1939, when the tension in Europe had increased, and expressed his apprehensions about the situation in Norway in the event of a conflict. He said it was to be feared that Norway would not be able to remain neutral in such a case, and that his home country might be occupied in the North by Soviet troops and in the South by the troops of the Western powers, and that he viewed things with great concern. My staff leader made a note of his apprehensions and then reported them to Dr. Lammers, as it was his duty to do.

DR. THOMA: When was that?

ROSENBERG: That must have been in June 1939. Thereupon Quisling asked one of my assistants to help to maintain German-Norwegian understanding and especially to acquaint his Party with the organization and propaganda of our Party movement.

Thereupon, in the beginning of August there were, I believe, 25 Norwegians in our training school in order to train for this propaganda work and then to return home.

DR. THOMA: What were they trained in, and how?

ROSENBERG: I did not see them, nor did I speak to them individually. They were taught how to carry on more effective propaganda, and how the organization of the Party in this field had been built up in Germany. We promised to assist them in this field.

Suddenly, after the outbreak of the war, or shortly before—I do not remember exactly—Hagelin, an acquaintance of Quisling's, came to me with apprehensions similar to those expressed by Quisling. After the outbreak of the war, this assistant of Quisling's reported various details about the activity of the Western Powers in Norway. Finally, in December of 1939, Quisling came to Berlin with the

declaration that, on the basis of exact information, he knew that the Norwegian Government was only seemingly neutral now, and that in reality it was practically agreed that Norway should give up her neutrality. Quisling himself had formerly been a Minister of War in Norway, and therefore, he should have had exact knowledge of these things.

In accordance with my duty as a German citizen, I recommended that the Führer should hear Quisling. The Führer thereupon received Quisling twice, and at the same time Quisling, with his assistant, Hagelin, visited Navy headquarters and gave them identical information. I spoke once to Raeder after that, and he also recommended to the Führer that he listen to Quisling's report.

DR. THOMA: Then you personally transmitted only those reports which Quisling had given you?

ROSENBERG: Yes, I would like to emphasize that although Quisling visited me, I had not been engaged on this question—I had not been involved in these political affairs for 6 years. Naturally, I had to consider it my duty to forward to the Führer reports which, if correct, were a tremendous military threat to Germany, and also to make notes of, and report to the Führer, those things which Quisling told me orally—namely, his plan to bring about a political change in Norway and then to ask Germany for support. At this time—I do not know, this development has been described in those documents produced by the Prosecution in words which express it much more precisely than I could summarize it here. In Document Number 004-PS, my staff leader made a short summary of it about 1½ or 2 months after the Norwegian operation.

DR. THOMA: This document—I would like to call the attention of the Tribunal particularly to this document—was compiled immediately after the Norwegian operation while the impression of its success was still fresh, and it describes the measures which were taken quite unequivocally. It states clearly that Quisling was the instigator, that he suddenly turned up at Lübeck and made reports, that he begged that his people be trained further, and that he came back again and again and always informed Rosenberg about the new developments in Norway.

THE PRESIDENT: What document are you referring to?

DR. THOMA: Document Number 004-PS, Exhibit GB-140. That is in Document Book 2, Page 113.

THE PRESIDENT: The document book is not numbered or paged?

DR. THOMA: I believe the number is at the bottom, Mr. President.

THE PRESIDENT: Which book is it you are referring to?

DR. THOMA: My Document Book Number 2, Page 113. Document Book Alfred Rosenberg, Page 113, Volume II. It is on Page 72 of the English translation.

THE PRESIDENT: Now, then, what is your question?

DR. THOMA: I would like to point out that on Page 1 it states, "Before the meeting of the Nordic Society in Lübeck, Quisling was in Berlin, where he was received by Rosenberg."

That was in June 1939, as is shown by the Document Number 007-PS. Then, on the next page, it says that in August a course was given in Berlin-Dahlem. It says further that in December of 1939 Quisling reappeared in Berlin on his own initiative and made his reports—that was on the 14th and 15th of December—and Rosenberg, in line with his duty, transmitted to the Führer these reports which Quisling made to him. He did nothing beyond that in this matter, however. Parallel to this, and entirely independently of each other, the same reports were received by Raeder.

[Turning to the defendant.] Do you have anything to add to Document Number 004-PS?

ROSENBERG: Yes. Please let me have the document. [The document was submitted to the defendant.] On Page 5 of this Document Number 004-PS, it is stated that Hagelin, Quisling's assistant who moved in Norwegian governmental circles and who had received orders from the Norwegian Government for the purchase of arms from Germany, after the Altmark incident, for instance—that is the incident where a German vessel was fired upon in Norwegian territorial waters—had heard Norwegian deputies of the Storting say that Norway's reserved attitude was clearly a pre-arranged matter. Further, in the middle of Page 7:

"On 20 March on the occasion of his participation in negotiations regarding German deliveries of anti-aircraft artillery, he made a detailed report on the unceasing activity of the Allies in Norway with the acquiescence of the Nygardsvold Government. According to his report, the Allies were already inspecting the Norwegian harbor towns for landing and transport facilities. The French Commander, Kermarrec who had orders to that effect"—incidentally I also remember this name spelled Karamac, or something similar—"in a confidential conversation with Colonel Sundlo, the Commander of Narvik, who was also a follower of Quisling, had informed the Colonel about the intention of the Allies to land mechanized troops at Stavanger, Trondheim, and perhaps also at Kirkenes, and to occupy Sola airport near Stavanger."

A little further down it says, and I quote:

"In his report of 26 March he"—that is, Hagelin—"pointed out once more that the speech of the Norwegian Foreign Minister Koht, dealing with Norwegian neutrality and his protests, was not taken seriously either in London by the English or in Norway by the Norwegians, since it was well known that the Government had no intention of taking a serious stand against England."

DR. THOMA: That is what Quisling reported to you?

ROSENBERG: Yes, these were the reports which Quisling had instructed Hagelin to make. I would like to add further that, some time after the Führer had received Quisling he told me that he had instructed the OKW to consider this case from the military viewpoint, and he asked me not to talk about this subject to anybody else. In this connection, I would like to point out also that—as can be seen from the report Document Number 004-PS—the Führer had emphasized that he wanted the entire Scandinavian North to maintain neutrality at all costs, and would change his attitude only if the neutrality was threatened by other powers.

Later, an assistant of mine was ordered by the Führer to keep up connections with Quisling at Oslo, and he received a certain sum from the Foreign Office to support propaganda friendly to Germany to counteract other propaganda. He also returned to Germany with reports about the opinions of Quisling. Later I heard—and this was entirely understandable—that this assistant, who was a soldier at that time, had also received military intelligence reports which he disclosed after the Norwegian operation.

DR. THOMA: Please be more brief, Mr. Rosenberg.

ROSENBERG: The Führer did not inform me of his final decision, or whether he had actually decided to carry through the operation. I learned of the entire operation of 9 November through the newspaper and thereupon paid a visit to the Führer on that day. Several weeks later, the Führer summoned me and said that he had been forced to make this decision on the basis of concrete warnings which he had received, and documents which have been found gave proof that these warnings had been correct. He said it had been true to the letter that when the last German ships arrived in the fjord of Trondheim, I believe, they had already been engaged by the first of the approaching British vessels.

DR. THOMA: In this connection I have just one more question: Did Hitler ever call on you to attend a foreign political or military conference in your capacity as chief of the foreign policy office?

ROSENBERG: The Führer differentiated strictly between the official foreign policy and the policy followed on account of an initiative or suggestion which was urged upon me from outside. I



believe all the documents show that he never asked me to participate in any conference concerning foreign policy or military preparations.

DR. THOMA: That is, you were never called upon to participate in the operations against Austria, Czechoslovakia, Poland, Russia, *et cetera*?

I believe, Mr. President, that this is a suitable time to adjourn.

*[The Tribunal adjourned until 16 April 1946 at 1000 hours.]*

# ONE HUNDRED AND NINTH DAY

Tuesday, 16 April 1946

## *Morning Session*

DR. THOMA: Herr Rosenberg, you were the official appointed by the Führer for the supervision of the entire intellectual and ideological training of the NSDAP and all its affiliated organizations. Did you exert any influence on national lawmaking in that capacity?

ROSENBERG: The Führer once spoke to me in this connection and explained to me that in the leadership of a large movement and of a state three factors had to be considered. There are, for instance, men who by their natures feel they must deal with any rising problems fundamentally through contemplation and then in lectures; then there is the directorate—that is to say, he, himself—who must select that which shows possibilities of realization; and finally, there are those people who have the task of putting the selected problems into practice in the social, political, and economic fields by dint of painstaking labor.

So it was that he originally conceived of my task, and he entrusted me with the supervision of training with the intention of expecting me to adopt a constructive attitude, by reason of my knowledge of the movement. The executive and legislative powers were in the hands of the respective ministries—that is, the Ministry for Education and the Reich Propaganda Ministry—and the general representation of the Party was in the hands of the Party Chancellery. The Party Chancellery occasionally asked me to define my position with regard to this or that question but was not obliged to consider my views.

DR. THOMA: Herr Rosenberg, did you have any influence on National Socialist school policies?

ROSENBERG: I did not have any direct influence on school policies. The school systems were an affair of the Reich Ministry for Education—the actual internal organization of the schools is not to be confused with the Party training—and the organization of the universities, the task of the ministry concerned with this problem.

DR. THOMA: There were National Socialist educational institutions. Can you tell me what kind of institutions these were and what your function was in that connection?

ROSENBERG: The so-called National Socialist educational institutions were special foundations under the leadership and direction

of the Ministry for Education and the Reichsführer SS Himmler, for the purpose of training a distinct disciplined class; and the inspection of these educational institutions was in the hands of a special SS leader detailed to the Ministry for Education.

DR. THOMA: Herr Rosenberg, you are also accused of religious persecution, especially as it finds expression in your *Myth of the 20th Century*. Do you admit that occasionally you were a little too severe toward the church?

ROSENBERG: Of course I will allow that as far as historically founded creeds were concerned I pronounced severe personal judgment. I would like to emphasize, in this connection, that in the introduction to my book I described it as a work dealing with personal opinions; secondly, that this book was not directed against the religious elements in the public, as is shown in the quotation on Page 125 of the document book, Part I; and thirdly, that I rejected a policy of withdrawal from the church, as can be seen in the document book, Part I, Page 122, and also rejected political interference by the state in purely religious confessions which is also expressed clearly in this book. I further rejected many proposals to have my book translated into foreign languages. Only once a Japanese translation was submitted to me, although I was not able to recall having given my approval for the translation.

DR. THOMA: Herr Rosenberg, you were not trained in theological matters. Don't you believe that in some judgments on theological questions you were wrong?

ROSENBERG: I naturally never assumed that this book, which deals with many problems, does not contain errors. I was, to an extent, grateful to receive criticism, and I made certain corrections; but some attacks I could not consider justified, and I thought that later I would certainly thoroughly revise this work—which, of course, also contained political comments.

DR. THOMA: Did you at any time use State Police measures against your opponents in theology and science?

ROSENBERG: No. I would like to state here that this work was published 2½ years before the assumption of power, and that it was naturally open to criticism from all sides, but that the main criticism arose after the assumption of power. I answered these attacks in two pamphlets, but I never made use of the Police to suppress these attacks or persecute the authors of these attacks.

DR. THOMA: Herr Rosenberg, in the RSHA there was an office for the persecution of "political" churches. Did you have any connection with this department?

ROSENBERG: I know only that a co-worker of mine was in contact with many Party offices as a matter of policy and, of course,

was also in touch with the SS. Through him I received many circular letters from the church authorities: pastoral letters, the circular letters of the Fulda Conference of Bishops, and many others. No arrests of individual church leaders came to my attention—although, of course, later on I did find out that during the war many monasteries had been confiscated, ostensibly for state political reasons—and so I never was able to find out in detail the political motives involved.

I must mention that in the year 1935 a bishop sent an official letter to the administrative head of his province, asking him to prohibit me from delivering speeches in that city. That, to be sure, was of no avail; this church dignitary was not harmed either by me or by anybody else, however.

DR. THOMA: What was your attitude toward the churches coming within the range of the Ministry for Eastern Territories?

ROSENBERG: After the entry of German troops in the eastern territories, the Wehrmacht of its own accord granted the practice of religious worship; and when I was made Minister for the East, I legally sanctioned this practice by issuing a special "church tolerance" edict at the end of December 1941.

DR. THOMA: The Prosecution have presented a number of documents—almost all of them letters by the Leader of the Party Chancellery—to support their contention of religious persecution. I would like to have you state your attitude toward these documents, which have been submitted under Numbers 107, 116, 122, 129, 101; USA-107, USA-351; 116, USA-685 . . .

THE PRESIDENT: Dr. Thoma, you are going too fast for us to get these numbers down. 107-PS, do you mean?

DR. THOMA: Yes.

THE PRESIDENT: Will you kindly say PS if you mean PS? 107-PS, 116-PS.

DR. THOMA: Yes, I will add the USA exhibit numbers. 107-PS, 351-USA . . .

THE PRESIDENT: Well, I would rather have the PS number. If you will give me the PS numbers, or whatever the numbers are, as part of the exhibit number: 107-PS, 116-PS . . .

DR. THOMA: Yes, Documents 116-PS, 122-PS, 129-PS, 101-PS, 100-PS, 089-PS, 064-PS, 098-PS, 072-PS, 070-PS.

ROSENBERG: The Document Number 107-PS was submitted by the Prosecution as proof of persecution of the churches. This was a circular letter sent out by the Party Chancellery and written by the Chief of the Reich Labor Service. In this circular, on Page 1, it is decreed that denominational discussions were to be prohibited

within the Reich Labor Service. I believe that was done so that particularly in the Reich Labor Service, where young people of all classes and backgrounds were taken in, denominational and religious discussions would be avoided.

On Page 2 it says:

“Just as it is of no concern to the Reichsarbeitsdienst to forbid its individual members to have a church wedding or funeral, so the Reichsarbeitsdienst must by all means avoid taking part, as an organization, in church ceremonies which exclude Germans of other beliefs.”

I considered this decree as the strictest adherence to religious freedom: for it meant that members of the Protestant faith could not be forced to attend Catholic services and vice versa; furthermore, that persons who perhaps did not belong to any religious denomination could not, on order of their organization, be forced to attend the services of one denomination or the other. Therefore, I cannot see that in this case we are concerned with religious persecution.

Document Number 116-PS concerns itself with a letter of the Leader of the Reich Chancellery sent to the Reich Minister for Science and Education and is dated 24 January 1939. This document was submitted to me for my information—I emphasize, “for my information.” It refers to correspondence between the Party Chancellery and this Ministry regarding the limitation of theological faculties, in which it is emphasized that the terms of concordats and church agreements would have to be taken into consideration; secondly, that it was necessary methodically to reorganize the entire higher educational system by amalgamation and simplification; and finally, it states that newly created fields of research, such as racial research and archeology, were also to be taken into consideration.

I could not see why, after 6 years of National Socialist revolution, new fields of specialization in scientific research should not find due consideration within the budget. I personally was interested in seeing that the subjects of agrarian sociology and the early history of Germany received proper consideration, specifically in regard to Germanic intellectual and spiritual history.

The same applies to Document Number 122-PS, also dated April 1939, into which I do not need to go in detail. It sets forth similar views by the Minister for Science, Education, and Popular Culture, stating how many theological faculties he deemed necessary to be retained.

Document 129-PS is a letter of the Reich Minister for Churches to a well-known German author, Dr. Stapel, who was especially interested in religious reform. In this letter, the Reich Church

Minister expresses the view that a common religious denomination should be especially promoted which would affirm the National Socialist State in particular and, at the same time, could enjoy and rely upon the support of the Reich Church Minister.

In the preliminary interrogation, a letter of mine was submitted to me, written to the Party Chancellery, relative to this matter, in which I declared myself against the calling of such a church congress by the Reich Church Minister on the principal ground that a National Socialist Minister of Churches did not have the function of joining a religious denomination of which he was the direct head, even if undeclared or only in appearance. It is exactly the same viewpoint which has provided the basis for many a reproach against me. If, in addition to publicizing my personal opinion, I had had the intention of providing or leading a religious group, then I would have had to give up all my functions, offices, and activities in the Party. That followed from a point of view of principle which I held. The Minister of Churches, as a National Socialist Minister, was, in my opinion, obliged not to promote a religion to which he was sympathetic, but to be independent of all religious denominations.

Document 101-PS is a letter from the Chief of the Party Chancellery—at that time still Chief of Staff of the Deputy of the Führer—in which the protest is made that many confessional writings tended to impair the resistance of the troops; and he suggested that it would be better to have my office issue such publications. An answer by me has not been presented here—has not been shown to me. My opinion has always been that, being in a Party office, it was not for me to write religious tracts, but that, of course, it could be left to every person as an individual—if one had something pertinent to say, to put it in writing, as others did.

Document 100-PS is a reproach from the former Chief of Staff of the Deputy of the Führer, Bormann, that I had stated in the presence of the Führer that the Protestant Reich Bishop, Müller, had written a very good book for the German soldiers. Reichsleiter Bormann said that this book by Müller did not appear suitable to him, because, after all, it was masked confessional propaganda. I do not believe that the reproach directed at me for unhesitatingly approving Reich Bishop Müller's expression of opinion given in a proper way—and naturally in keeping with his way of thinking—can be portrayed as religious persecution.

Document 089-PS is a letter by Bormann, which he sent to me for my information, in which he told me that he had proposed to Reichsleiter Amann that, because of the general scarcity of paper, religious writings, which had decreased by only 10 percent, should be further curtailed. I did not know to what extent the curtailment

of all periodicals was undertaken at that time. I can only state that in the course of the war even the seven periodicals about art, music, folk-lore, German dramaturgy, *et cetera*, which were published by my office, were constantly curtailed and abbreviated along with the rest of the periodicals in the German Reich.

Document 064-PS is a letter of the head of the Party Chancellery, in which I am informed of the letter of a Gauleiter referring to a pamphlet by General Von Rabenau entitled, *The Spirit and Soul of the Soldier*. This Gauleiter criticized the very denominationally bound viewpoint of General Von Rabenau, and he protested against the fact that this tract appeared in a series of pamphlets published by the Party. In that connection I would like to say that this tract by General Von Rabenau appeared in a series published by my Party office, and that I read this pamphlet personally beforehand and gave him the opportunity to voice his opinion in this series which contained many political tracts of a general historical nature. I did not withdraw this pamphlet.

Document 098-PS contains a new reproach against me by the Chief of the Party Chancellery. He said that Reich Bishop Müller claimed that he had had directives from me to work out basic principles for the organization of religious instruction in the schools.

Bormann set forth at great length that it was not the task of the Party to engage in reform measures with respect to religious instruction in schools. To this I would like to say the following. I could not give any instructions at all to Reich Bishop Müller on this topic. Nevertheless, the Reich Bishop visited me on two occasions, and on one occasion he told me, virtually with tears in his eyes, that he got no proper response to his work. I told him, "Your Excellency, as a military pastor, you are simply not well enough known to the public. It would be quite apropos if you would write a detailed work setting forth your views and your objectives, so that the various groups of the Evangelical Church might get to know your ideas, and in that way you can make your influence felt in the manner you wish." The Reich Bishop may well have spoken about this, and probably made a few additional remarks. I do not believe that the accusation made here by Bormann can be construed as persecution of the churches either.

Document 075-PS is a special circular letter by the Chief of the Party Chancellery, setting forth his personal views on the relationship of National Socialism to Christendom. As well as I remember, this document deals with the following: I had once heard that Bormann had sent a letter of such contents to a certain Gauleiter and also copies of it to all the Gauleiter. I asked him to let me know about it. After much delay I finally received this circular letter. As a Party circular, I considered it improper in

form and substance. I wrote Bormann—and I believe the letter I sent to him should be found in my records—that I did not consider a circular letter of that sort suitable or proper and I added, in my own handwriting so that it would be taken more seriously, that in my opinion the Führer would not approve a circular letter of this sort. Later I spoke with Bormann about this personally and told him that each one of us had the right to define his position towards this problem, but official Party circulars—and especially in this form—were impossible in my opinion. After this conversation, Bormann was greatly embarrassed, and—as I incidentally heard from my Codefendant Schirach—this circular letter, according to him, was rescinded and declared null and void. I can make no statement about this, however.

DR. THOMA: Mr. President, I would like to call attention to the fact that I gave the Document Number 075-PS to this document, but it should actually be Document D-75.

ROSENBERG: Document 072-PS is a letter from Bormann with reference to the matter of investigating the libraries of monasteries confiscated by the State. I was not told the political reasons involved in each case; but I did hear that the police were demanding the additional right to take over the investigation of this sort of thing. This was a problem which brought me into conflict with Himmler in those years. I considered it completely impossible that such investigation was to be brought under police control as well, and that motivated me, as can be seen from Document 071-PS, to place myself in opposition to Bormann in this matter.

This Document 072-PS gives Bormann's answer to me, in which he points out that Heydrich insisted absolutely on continuing this research and said—I quote: "The scientific refutation of antagonistic philosophy can only be carried out after preliminary police and political preparation." I considered this attitude absolutely untenable, and I protested against it.

These are the pertinent comments which I have to make on these numerous documents. I refused to write official Party tracts of religious semblance or to have catechisms written by my Party offices. I always strove to take what I considered to be a National Socialist attitude in not considering my office a "spiritual" police force; but the fact remained that the Führer had charged Bormann with the official representation of the Party's attitude toward the church.

My answer to all of these letters is missing, and I do not recall whether I replied to everything, or whether I gave these answers orally to Bormann at conferences. But despite the fact that all of these answers are lacking, the Prosecution have stated that both of



us, that is Bormann and I, had issued decrees for religious persecution and had misled other Germans into participating in these religious persecutions.

I would like to summarize and state on principle that this is ultimately a thousand-year-old problem of the relationship between secular and church power, and that many states have taken measures against which the churches have always protested. When in modern times we look at the laws of the French Republic under the ministry of Combes, and when we look at the legal system of the Soviet Union, we see that both have supported the officially promoted atheist propaganda in tracts, newspapers, and caricatures.

Lastly, I would like to say that in all cases the National Socialist State, so far as I know, gave to the churches more than 700 million marks annually out of the tax receipts for the maintenance of their organizational work, and that up to the end.

DR. THOMA: Witness, the chief of the Party Chancellery, Bormann, in the course of time, met you in still keener opposition. Was the reason for the, one may well say, enmity between you and Bormann the fact that in church matters you were considerably more tolerant than Bormann, himself?

ROSENBERG: It is difficult to say just which reasons played a role here. That this hostility was as deep as it finally revealed itself to be, specifically when dealing with Eastern problems, I realized only later, much later. Ultimately I had to admit, of course, that in a large movement many temperaments and many views may exist, and I did not except myself from having shortcomings and faults which could be criticized by others. I did not believe that differences and opinions could lead to a hostility of such proportions that it would result in undermining the official position of the opponent.

DR. THOMA: Were religious services in the Third Reich, regular Sunday services, and so forth limited in any way?

ROSENBERG: I cannot tell you that at the moment. As far as I know, religious services were never forbidden in the whole of Germany up to the end.

DR. THOMA: Now I come to the Einsatzstab. I give you Document 101-PS, (Exhibit USA-385) in which the essential matters are summarized, and I refer you to the document book of the French Prosecution, Document Number FA-1, in particular. How did the establishment of Einsatzstab Rosenberg come about?

ROSENBERG: The Prosecution contends that it is a matter of a premeditated plan for the plundering of the cultural treasures of other states. In reality, the following was true: We were dealing with an unforeseen situation. A colleague of mine had accompanied

a press delegation when the German troops marched into Paris and noticed that the Parisians were returning almost completely with the exception of the Jewish population, so that all organizations and institutions in that category of ownership were left behind empty, as well as the residences and mansions of these leading personalities, so to say, ownerless. He suggested that research into property, archives, and correspondence should be made. I reported the matter to the Führer and asked whether he approved of the carrying out of this suggestion.

This letter of mine to the Führer was submitted to me in the preliminary interrogation but was not submitted to the Tribunal by the Prosecution. Thus, even though the documentary proof of the reason for this entire transaction is at hand, the Prosecution have still maintained the charge of a premeditated plan.

The order of the Führer was issued at the beginning of July 1940, and since a large number of art objects, in addition to the archives, was found in a dangerous position in many mansions, the safekeeping and the transporting of these objects of art into the German Reich was decreed by the Führer.

DR. THOMA: Did you know anything as to what legal reasons Hitler is believed to have had for these measures?

ROSENBERG: Yes, and I would admit...

THE PRESIDENT: Just one minute. I don't understand what you are saying. Are you saying that you made a suggestion to the Führer, and that there is proof of your letter making that suggestion, and that the Prosecution are concealing that proof? Is that what you are saying? Will you answer that question? Are you suggesting that they are concealing a proof of the suggestion which you made the Führer for this scheme of taking away Jewish property from France?

ROSENBERG: No, I do not wish to say conceal, but only to say that it was not submitted, even though it was shown to me in a preliminary hearing.

DR. THOMA: May I add a few details, Mr. President. I would like to point out that I repeatedly pointed out in my petitions that this letter must be available, since it was submitted to the Defendant Rosenberg in the preliminary hearings.

THE PRESIDENT: Have you made any application for the document to be produced?

DR. THOMA: Yes, Mr. President.

THE PRESIDENT: When?

DR. THOMA: I repeatedly called attention to this document—to the submission of this document.

THE PRESIDENT: Well, the Tribunal are quite unaware of having turned down any such request. Let me see the written request.

DR. THOMA: Yes.

THE PRESIDENT: It probably is not a matter of very great importance. I only wanted to know what the witness was talking about.

DR. THOMA: Mr. President, I will send for my files.

THE PRESIDENT: Very well, you can go on in the meantime.

ROSENBERG: Of course, it was clear that we were concerned with an unusual problem, and for that very reason I did not talk with the military administration but went directly to the Führer, so that I could get his opinion. But I believe the fact in itself can be understood, that we were interested in going into historical research regarding the extent to which, in the course of recent years or decades, various organizations had taken part in the activity which is here under discussion as destructive of peace; secondly, how many prominent persons individually took part in it; and thirdly, I remembered that many works of art, which in past times had been taken from Germany had not been returned to Germany for many decades, despite the agreement of 1815.

Finally, I thought of a measure which in 1914 to 1918 had been recognized by the Allies as being in agreement with the Hague Convention. At that period German citizens of a certain category—they were the racial Germans abroad, in foreign countries, also in occupied German territory—that is, in the colonies—had their property confiscated and later taken from them without compensation to the extent of a value of 25 billion Reichsmark. In the peace dictate of Versailles, Germany was in addition obliged to post security for these dispossessed Germans and to set up a special fund.

The Chief French Prosecutor declared at this Trial that the Versailles Treaty was based on the Hague Convention. Therefore, I drew the conclusion that this measure against a very distinct category of citizens in the midst of unforeseen military measures, with all due respect for private and public property otherwise, appeared justified.

During the preliminary hearing, I was also asked about the legal hypotheses and had started to point them out, but I was interrupted with the remark that we were not concerned with that problem at the time. The record of this interrogation which the French Prosecution presented here contains the remark that I am supposed to have said...

**THE PRESIDENT:** We are not concerned with the interrogations until the interrogations are put in evidence. These interrogations have not been put in evidence yet. You can give your explanations of them if they are put to you in cross-examination.

**ROSENBERG:** Mr. President, this document is mentioned here in the document book, and the German translation may be found, although not exactly verbatim, in the French files.

**DR. THOMA:** Mr. President, the defendant only wishes to say that from the beginning he pointed out that the Treaty of Versailles, Article 279, was authoritative, that he did not invent that later on.

**THE PRESIDENT:** Dr. Thoma, all I was pointing out to him was that the various interrogations which have taken place very likely are not in evidence. Of course, if he is referring to interrogations which have been put in evidence—but is he?

**DR. THOMA:** Yes. This is FA-16 (Document Number L-188). That was submitted, Mr. President.

**ROSENBERG:** That is what I was speaking of. That was submitted. But this interrogation was...

**THE PRESIDENT:** Just a moment. If he is referring to an interrogation which has been put in evidence, it must have an exhibit number.

**DR. THOMA:** This interrogation is in the document book, and it is known as Document Number FA-16.

**THE PRESIDENT:** If he is referring to an exhibit, no doubt he can do it.

**ROSENBERG:** I would like only to rectify somewhat an error in the translation. I did not say, "Yes, it is true; I remember that this measure was taken;" but I said, "I thought it," that is to say, I had thought it earlier, not at the moment when I was asked. I saw this only when I received the translation, which I had not seen prior to that time.

As far as Document 1015-PS is concerned, in order not to delay the Court too long, I would like to point to just a few items—namely, that in the work report of 1940-44, on Page 2, it was stated that the origin was determined beyond question, and on Page 3 we see that the taking of inventories was done in a conscientious manner on the basis of a scientific catalog, that a workshop for the restoration was set up in order to ensure their arriving at their destination in good condition.

Finally, I would like to add a few words because they seem important to me in view of the charges of the Soviet Prosecution relative to the treatment of cultural treasures by the Einsatzstab in the former Occupied Eastern Territories. At the end of the work

report, there is stated under the title, "Work in the Eastern regions"—I quote:

"The activity of Special Einsatzstab 'Plastic Art' was limited in the Occupied Eastern Territories to scientific and photographic recording of public collections, their safeguarding and care in collaboration with military and civilian offices. In the course of evacuation of the area, several hundred of the most valuable Russian icons, several hundred Russian paintings of the 18th and 19th centuries, individual pieces of furniture and household articles... were recovered and brought to the Reich for safekeeping."

I only wanted to point out by this that the Einsatzstab in the East did not transport any Soviet cultural and art treasures to the Reich, but only brought them to safety—as may be seen from later documents, when the territories directly menaced by operations were evacuated—first into the rear areas, then further back and partly into the Reich.

From the same document I would like to point to a letter of 5 July 1942 from the Reich Minister and Chief of the Reich Chancellery. I refer to the charge of the Polish Government that the entire removal of works of art and museum pieces was concentrated in the Einsatzstab or in the Rosenberg office in Berlin. I will return again to this Polish accusation. I just want to point to the paragraph in Dr. Lammers' letter which says that the Führer had decreed that various libraries of the Eastern region were to be confiscated; and then there is stated expressly, "The Government General is not included."

Furthermore, I refer to the directive of the Reich Minister for the Occupied Eastern Territories of 20 August 1941 to Reich Commissioner Ostler.

DR. THOMA: What page?

ROSENBERG: Page 2 of this document. At the end it says...

THE PRESIDENT: What document are you talking about now? What document number?

ROSENBERG: I am sorry, but the copy I have is not marked in red, and I am, therefore, referring to the document in my hands. At any rate, it is at the end of page 1 of the document. This is no special letter, it is a circular letter dated 7 April 1942.

THE PRESIDENT: I only want to get this clear. What I took down was that he was referring to a decree of the 20th of August 1941.

ROSENBERG: I beg your pardon. It is 20 August.

DR. THOMA: 20 August, that is correct, and the year is 1941. It is Page 78 of Document Book 2, at the end of the page.

ROSENBERG: "I expressly request that you prohibit the removal of cultural objects of any kind from your Reichskommissariat, by any agencies whatsoever, without your approval. What confiscated cultural objects will remain in the Reichskommissariat Ostland and what may possibly be utilized for specialized research work must come under a later regulation. I request that you inform your subordinate general and district commissioners of this directive. The national administration of museums, libraries, *et cetera*, regardless of the right of inspection and inventory by the Einsatzstab, remain unaffected by this directive."

I shall come back to this directive later when replying to the accusation by the Soviet Prosecution regarding the administration of Estonia, Latvia, and Lithuania.

DR. THOMA: We come now to the furniture operation in France.

ROSENBERG: I am not finished with this matter yet, because exceptionally serious charges have been preferred in this matter. I refer to a second directive of the Reich Minister for the Occupied Eastern Territories, dated 7 April 1942, in which, at the end, under I, the fundamental principles I have just read are reiterated. It is in Document Book 2, Page 94. All are told to refrain entirely from independent action.

Under II, it says verbatim:

"In special cases, as an exception, immediate steps can be taken to secure or remove items to a safe place in order to evade threatening dangers—that is, danger of collapse of buildings, enemy action, climatic influences, *et cetera*."

I shall come back to this in connection with the accusation of the Soviet Government regarding happenings in Minsk. When Document 076-PS was read, it said at the end that there was never any order given for the protection of cultural objects. This order has been presented here twice.

Further, I would like to refer to a directive of 3 October 1941 by the Reich Minister for the Occupied Eastern Territories to the staff leader of the Einsatzstab in the same document—wherein I again call special attention to the document which I have just read.

In addition, I call the Tribunal's attention to an order of the High Command of the Army of 30 September 1942, which was issued in agreement with the Reich Minister for the Occupied Eastern Territories. Here also it says literally at the end, under I, . . .

DR. THOMA: Is that Page 89 of the document book?

THE PRESIDENT: Which is that? September '42?

ROSENBERG: 30 September 1942.

THE PRESIDENT: Yes, I have got that. What about the one of October '41? Where is that?

ROSENBERG: October '41?

THE PRESIDENT: October '41.

ROSENBERG: That is 3 October 1941.

THE PRESIDENT: Do you know where it is, Dr. Thoma?

DR. THOMA: It is contained in Document 1015-PS, Exhibit USA-385, but it may be that this document is not listed in this particular index. In my document I cannot locate it at the moment, but it belongs to 1015-PS and was submitted in its entirety.

ROSENBERG: And the order of the Army High Command of 30 September 1942 says, under I:

"Except for special cases, in which the safeguarding of endangered works of culture is urgent, efforts will be made to leave them in their present location for the time being. For this purpose, according to reciprocal agreements between the Quartermaster General of the General Staff of the Army and the Einsatzstab of Reichsleiter Rosenberg, the latter has been granted authority to: c) in order to safeguard against damage or destruction in the operational area of the East also such works of culture which do not fall under paragraph b—especially museum pieces—to protect and/or place them in security."

At the end of this directive, it says under IV:

"Independent of the missions of the Einsatzstab of Reichsleiter Rosenberg, according to Section I, a, b, c, the troops and all military offices located in the operational area are instructed now, as before, to preserve valuable art objects if possible and to protect them from destruction or damage."

I believed it my duty to prove, at least very briefly, that my Einsatzstab, as well as the military offices, issued clear directives and orders for the protection, even during these bitter battles, of objects of art of the Russian, Ukrainian, and White Ruthenian people.

DR. THOMA: Herr Rosenberg, you know that Hitler and Göring diverted some of the objects of art which were confiscated in France. What part did you play in this matter?

ROSENBERG: In principle the Führer specified, as can be seen from information given by the then Field Marshal Keitel, upon order of the Führer, that he reserved for himself the disposition of these works and any decision related hereto.

I do not wish to dispute in any way that I had the hope that at least a large part of these objects of art would remain in

Germany, particularly since, in the course of time, many German cultural works were destroyed by particularly severe bombing in the West. These works of art were to be a sort of security for later negotiations. When Reich Marshal Göring, who by directive of the Führer particularly supported this work of the Einsatzstab, earmarked a number of these works of art for his collection, I was—I must say frankly, as the record states—a little uneasy, because with this commission I had taken on a certain responsibility in my name for the total of the confiscated cultural and art objects, and I was, therefore, obligated to catalog them in their entirety and to keep them available for any negotiations or decisions. Therefore, I directed my deputy to make as complete a list as possible of those things which the Reich Marshal, with the approval of the Führer, was diverting for his collection. I knew that Reich Marshal Göring intended later to give this collection to the German Reich and not to bequeath it privately.

In the interrogation record which was produced and read on this point by the French Prosecution there is also a regrettable error to be found. It says that I had been uneasy because Reich Marshal Göring had misappropriated these works of art. In German, the term "entwendet" means as much as to take illegally (to embezzle). What I said, however, was "verwendet," which has a different meaning.

DR. THOMA: Mr. President, I would like to point out in this connection the fact that the French used the word "détourné," which means "divert."

THE PRESIDENT: The Tribunal will adjourn now.

*[A recess was taken.]*

DR. THOMA: I now turn to the furniture operation in France, and for that purpose I am showing the defendant Document 001-PS, also Volume II of the French Document Book, and I am asking the defendant to state his views with respect to it.

*[The document was submitted to the defendant.]*

ROSENBERG: Document 001-PS contains, at the beginning, information to the effect that in the East accommodations were found to be so dreadful that I was proposing that ownerless Jewish homes in France and their furniture should be made available for that purpose. This suggestion was approved in a decree issued, by order of the Führer, by the Reich Minister and Chief of the Reich Chancellery on 31 December 1941.

In the course of the ever increasing bombardment in Germany, I considered that I no longer could take responsibility for this, and



thus I made a suggestion that this furniture should be placed at the disposal of bombed-out victims in Germany—which amounted to more than 100,000 people on certain nights—so that emergency aid would be given to them.

In the report of the French Document Book it is stated in the seventh paragraph how the confiscation was carried out: that these deserted apartments were sealed, that they remained sealed for some time in the event of possible claims, and that then the shipment to Germany was carried out.

I am aware that this, no doubt, was a serious encroachment on private property; but here again, in connection with previous considerations, I thought about the implications and, finally, of the millions of homeless Germans. I want to emphasize in this connection that I kept myself well informed; that the homes, their owners, and the main contents in the way of furniture were recorded in detail in a big book, as a basis for possible negotiations at a later date.

In Germany the matter was so arranged that those people who suffered damage by bombing paid for these furnishings and household goods, which were placed at their disposal; and these deliveries were deducted from the claims which they had against the state. That money was paid into a special fund administered by the Minister of Finance.

The Document 001-PS contains under Number 2 a suggestion which I myself consider a serious charge against me. This is a suggestion that in view of many murders of Germans in France, not only Frenchmen should be shot as hostages, but that Jewish citizens also were to be called to account. I should like to say that I considered these shootings of hostages, since they were announced publicly, a permissible measure under special circumstances in wartime. The fact that this sort of thing was being done by the Armed Forces appeared to me according to the result of the usual investigations, the more so since it was taking place in a territory, a State with which the German Reich had signed an armistice.

Secondly, this happened during a period of excitement, due to the war which had just broken out with the United States of America and to our recollection of the report from the Polish Ambassador, Count Potocki, dated 30 January 1939, which the Tribunal has forbidden to be read.

In spite of everything, however, I must say that I consider this suggestion as a personal injustice. Looking at it from the legal side, I would like to point out that in Document 1015-PS, under letter Y, there is a letter from the Reich Minister and Chief of the Reich Chancellery, which is dated 31 December 1941, and in which it says:

“Your memorandum dated 18 December 1941 has been submitted to the Führer. The Führer has agreed in principle with the suggestion under 1. A copy of that part of the memorandum which deals with the utilization of Jewish household goods I have sent to the Commander-in-Chief of the Armed Forces and the Reich Commissioner for the Occupied Netherlands, together with a letter of which a copy is attached hereto.”

In this matter Point 1 was accepted and tacitly, though just as emphatically, Point 2, which deals with this suggestion, was turned down. This suggestion, therefore, had no legal consequences. Later on I never again referred to this suggestion, and I must say that I had forgotten all about it until it was again put before me here.

DR. THOMA: I now turn to the subject, “Minister for the Occupied Eastern Territories.” The defendant is eager to express his opinion with regard to Molotov’s note—that he, the defendant, was a Czarist spy—since this affects his personal character. I therefore ask the defendant whether he at any time had relations with the Czarist police.

ROSENBERG: No.

GEN. RUDENKO: Mr. President, the Indictment which has been presented to the Defendant Rosenberg at no point incriminates him of having been a Czarist spy. Therefore, we consider that this question is irrelevant.

DR. THOMA: The Molotov notes have been submitted to the Tribunal, and so have been put in evidence. Therefore, I think that I may be permitted to put that question.

THE PRESIDENT: He has answered in the negative already, so you can pass from it, can’t you? It has formed no part of the Indictment.

DR. THOMA: Yes.

[Turning to the defendant.] When did you learn that you were proposed for the position of Minister for the Occupied Eastern Territories, and for what reason were you given this commission?

ROSENBERG: May I state with regard to this that at the very beginning of April—as far as I can remember it was 2 April 1941—the Führer summoned me in the morning and explained to me that he regarded a military clash with the Soviet Union as inevitable. As reasons he quoted two points: first, the military occupation of Romanian territory—that is to say, Bessarabia and North Bukovina; second, the continual re-enforcing for a long time and on a gigantic scale of the Red Army along the line of demarcation and in Soviet Russian territory generally. These facts were

so striking that he had already given the relevant military and other orders and had decided to assign me as a political adviser in a decisive capacity. Thus I was faced with a *fait accompli*, and an attempt even to discuss the matter was countered by the Führer with the remark that the orders had been given and that scarcely anything could be altered in the matter, whereupon I told the Führer that, of course, I wished the best of luck to the German arms, and I was at his disposal for the political advice which he desired.

Immediately afterwards I called a meeting of some of my closest assistants, since I did not know whether the military operations would be starting very soon or later on. We made a number of drafts concerning the possible treatment of political problems and possible measures to be taken in the territories to be occupied in the East. These drafts have been submitted here. On 20 April I received a preliminary task, which was to form a central department for dealing with Eastern questions and to get in touch with the highest Reich authorities concerned with these matters.

DR. THOMA: I should like to submit to the defendant the instructions which he drafted after his appointment.

I have just one more request to the Tribunal. These instructions are now crossed out in the photostatic copy and bear all sorts of remarks. I request, therefore, that the Tribunal take personal cognizance of the photostatic copies so that they can see how these instructions have been crossed out. The documents themselves have already been submitted to the Tribunal as numbered exhibits.

ROSENBERG: May I refer to these documents—1017-PS, 1028-PS, 1029-PS, and 1030-PS...

THE PRESIDENT: They have already been put in evidence?

DR. THOMA: Yes, they have been put in.

[Turning to the defendant.] May I ask you to state the exhibit numbers?

ROSENBERG: I have just mentioned the exhibit numbers.

DR. THOMA: What are the USA exhibit numbers?

ROSENBERG: Document Number 1028-PS has Exhibit Number USA-273; Document 1030-PS has Exhibit USA-144. On the others I do not find any USA numbers.

DR. THOMA: Document 1017-PS is Exhibit USA-142; Document 1028-PS is Exhibit USA-273; Document 1029-PS is Exhibit USA-145; Document 1030-PS is Exhibit USA-144. They are contained in the special document book for the Defendant Rosenberg. I state in this connection that these are provisional drafts, with notations by the secretary, from the end of April and the beginning of May.

These provisional drafts were not released but, as can be seen, were crossed out and supplemented with written remarks in the margin; and, in addition, they contain viewpoints which later on were not approved by the Führer. For this very reason, as far as the Ukraine is concerned they could not be applied at all. The written instructions which went out to the Reich Commissioners for the East and the Ukraine, after the Ministry for the Occupied Eastern Territories had been formed, were unfortunately not found, so that I cannot refer to them.

DR. THOMA: On 20 June 1941—that is to say, one day before the outbreak of the war against Russia—did you make a speech to everybody concerned with Eastern affairs regarding those Eastern problems? The document concerned here is Exhibit USA-147, from which the Prosecution quoted a single paragraph several times.

ROSENBERG: This is a fairly long impromptu speech made before those who were concerned with, and assigned to deal with Eastern problems. With regard to this, I state that it was my duty, as a matter of course, to consider political measures which would have to be proposed to avoid a situation in which the German Reich would have to fight every 25 years for its existence in the East; and I should like to emphasize that that which I authentically said in a confidential speech does not correspond in any way with the Soviet accusations that I was in favor of a systematic extermination of the Slavic peoples.

I do not wish to occupy the Tribunal's time by reading very much here; nevertheless I would like to read a few paragraphs to justify myself. It says on Page 3 (Exhibit USA-147):

“Originally, Russian history was a purely Continental affair. For 200 years Moscow-Russia lived under the Tartar yoke, and its face was mainly turned to the East. The Russian traders and hunters opened up the East as far as the Urals. Some Cossack treks went to Siberia, and the colonization of Siberia is no doubt one of the great accomplishments of history.”

I think that this expresses my attitude of respect toward that historic achievement.

On Page 6 it says:

“From this it follows that Germany's aim is the freedom of the Ukrainian people. This must without fail be made a point in our political program. In what form and to what extent a Ukrainian State can be formed later is of no purport just now... One must proceed cautiously in this direction. Literature dealing with the Ukrainian struggles must be promoted so that the Ukrainian people's historical consciousness can be revived. A university would have to be founded

in Kiev, technical colleges established, the Ukrainian language cultivated, *et cetera*."

I have quoted this as documentary evidence of the fact that it was not my intention to destroy the culture of the peoples of the East.

In the next paragraph I pointed out that it was important to win, in the course of time, the voluntary cooperation of the 40 million people in the Ukraine. On Page 7 reference is made to the possible occupation of the Caucasian territories as follows:

"Here the aim will not be to establish a Caucasian National State but to find a solution on Federal lines which, with German help, might go so far as to influence these people to ask Germany to protect their cultural and national existence."

Here, too, there is no question of a desire to exterminate.

Now comes a matter which has been described by the American Prosecution as a particularly serious, incriminating factor. It deals with the so-called colonization and the property of German peoples in the East. This paragraph is worded as follows:

"Quite apart from all these problems, there is a question which is of an equally general nature, and which we must all think about—namely, the question of German property. German people have worked in this immense territory for centuries. The result of that work, among other things, was the acquisition of vast lands. The land confiscated in the Baltic countries can be compared in size with East Prussia; the entire real estate in the Black Sea was as great as Württemberg, Baden, and Alsace put together. In the Black Sea area more land was cultivated than is arable in England. These comparisons of size must make it clear to us that the Germans there did not idly exploit or plunder the people, but that they did constructive work. And the result of this work is German national property; irrespective of earlier individual owners. Just how that may one day be compensated cannot yet be considered. But a . . . legal basis can be established."

I wished to quote this so that I can refer to it later on when we deal with the agrarian problem, particularly in respect to the Reich Commission East, where in spite of these reflections the 700-year-old German property was not restored but handed to the Estonians, Latvians, and Lithuanians by law, as has been proved.

In a later paragraph it states:

"We must declare in this connection that even now we are not enemies of the Russian people . . ."

THE PRESIDENT: Are you still reading from Document 1058-PS?

ROSENBERG: Yes. I continue to quote the following paragraph:

"We must declare in this connection that even now we are not enemies of the Russian people. All of us who knew the Russians before know that the individual Russian is a very likable person, capable of assimilating culture, but lacking only in the strength of character possessed by the Western European... Our fight for a regrouping is conducted quite in line with the right of national self-determination of peoples..."

I shall not read to the Tribunal the end, which they can later take cognizance of in detail if they so wish.

I made that speech fully convinced that, after my first expository remarks to the Führer about the subject, he had essentially agreed with me. I did not know—and he did not tell me—that other military and police orders had already been issued; otherwise it would have been practically impossible for me—and particularly in Heydrich's presence—to make a speech which obviously contradicted flatly the conceptions of Himmler and Heydrich.

As far as the passage from this document which had been quoted by the Prosecution is concerned, I have the following to say: I heard from people working on the Four Year Plan that, in the event of an occupation of the Moscow industrial region and of far-reaching destruction by war operations, large-scale industries could no longer continue, and that activities would probably be limited to operating a number of key industries only. That would necessarily result in considerable unemployment. Besides, it was not clear how large the supply reserves in the East were, and in view of the general food situation and of the blockade the German food supply had to be a primary consideration.

This is back of the remark that under certain circumstances a large-scale evacuation of Russian territories might be necessary where large numbers of industrial workers might become unemployed. And in connection therewith, I should like to refer to Document 1056-PS, which contains the first directive from the Ministry for Eastern Affairs, according to which the providing of food supplies for the population also was made a special duty.

DR. THOMA: On 17 July 1941 you were appointed, by decree of the Führer, to act as Reich Minister for the administration of the newly occupied Eastern Territories. On the preceding day there had been a conference between Hitler, Keitel, Göring, and Lammers, during which you stated your administrative program in detail. I refer to Document L-221, Exhibit USA-317 and ask you to comment upon it. It is on Page 123 in Rosenberg Document Book 2.

ROSENBERG: This document, which is obviously a final résumé by Bormann, has, of course, been submitted here four or five times.

During that meeting I had actually not intended to present a voluminous program, but this session had been called for the purpose of discussing the wording of the intended Führer decrees concerning the administration of the Occupied Eastern Territories and to give all the participants an opportunity to state their views on that subject. I was also preoccupied with a number of questions dealing with personnel, which I wanted to submit to the Führer. I was surprised, therefore, when the Führer began passionately, and at considerable length, to expound this policy in the East while making many unexpected observations for me. I had the impression that the Führer himself was aroused by the unanticipated powerful armament of the Soviet Union and our hard struggle against the Red Army. That had obviously caused the Führer to make some of the statements to which I may perhaps refer at the end.

In the presence of the other witnesses, I countered the unexpected statements of the Führer, and in addition I should like to read from Bormann's record the following paragraphs which have not been read until now. I quote from the original Document L-221 on Page 4:

"Reich Leader Rosenberg emphasizes that, in accordance with his views, each Kommissariat would require a different treatment of the population. In the Ukraine we would have to initiate a program furthering art and culture. We would have to awaken the historical consciousness of the Ukrainians, and establish a university at Kiev, and the like. The Reich Marshal, on the other hand, points out that we have to think first of guaranteeing our food supply—everything else should be dealt with later.

"(Incidental question: Is there still anything like an educated class in the Ukraine, or are upper-class Ukrainians to be found only as emigrants outside present-day Russia?)"

This is a comment by Bormann. I continue to quote:

"Rosenberg continues that certain independence movements in the Ukraine deserved support as well."

Then follows on Page 5 a quotation of the intentions of the Führer, where it says—and I quote:

"Likewise the Crimea, including a considerable hinterland (territory north of the Crimea), must become Reich territory; the hinterland must be as large as possible.

"Rosenberg complains about this because of the Ukrainians living there.

"(Incidental question:—again from Bormann—"It frequently appears that Rosenberg has quite a liking for the Ukrainians; he wants to enlarge the former Ukraine to a considerable extent.)"

Thus there is evidence that I tried to persuade the Führer with all my might to agree to the same points which I made in my speech on 20 June 1941 before the assembled department heads.

The further content of the document shows that the Reich Marshal was interested particularly in the appointment of the former Gauleiter Koch, and that I opposed this candidate since I was afraid that Koch, due to his temperament and being so far removed from the Reich, might not follow my directives. To be sure, while making the protest I could not have known that Koch later on, in disobeying my directives, would go as far as he did and—I shall add—upon special instigation by the head of the Party Chancellery.

Toward the end, on Page 10 of the original of the record, there appears a passage which has not been read, which I am now quoting:

“A lengthy discussion sets in regarding the competency of the Reichsführer-SS. Obviously the participants have also in mind the authority of the Reich Marshal at the time.”

I personally wish to add that this is a private remark made by the head of the Party Chancellery and does not by any means represent the actual minutes of a meeting. I quote further:

“The Führer, the Reich Marshal, and others emphasize repeatedly that Himmler shall by no means have greater jurisdiction than he had in Germany proper; this, however, was absolutely necessary.”

These minutes show that this was a rather heated discussion, since, not only during that conference, but before that I had opposed the idea that the police should have legally independent executive authority in the occupied territories—that is to say, that they were to be independent of the civil administration. I also spoke against the presented version of the Führer decree, which had already been prepared. I did not find any support whatsoever for my opinion from anyone present, and that explains to a great extent the later developments and the wording of the decree, signed on the following day by the Führer, which was the ruling applicable to the entire administration in the Occupied Eastern Territories.

DR. THOMA: On 17 July you were appointed Minister for the Occupied Eastern Territories, and at the same time other appointments were made. The question now arises: What was the extent of your competency and of your activities in the Eastern Territories?—Rosenberg Document Book, Volume II, Page 46.

ROSENBERG: May I refer you to Paragraph 2, which deals with the establishment of the Ministry for the Occupied Eastern Territories, where a Reich Minister is appointed, and Paragraph 3, which reads as follows:



"Military authorities and powers are exercised in the newly occupied Eastern Territories by the commanders of the Armed Forces in accordance with my decree of 25 June 1941. The powers of the Delegate for the Four Year Plan in the newly occupied Eastern Territories, according to my decree of 29 June 1941, and those of the Reichsführer SS and Chief of the German Police, according to my decree of 17 July 1941, are subject to special ruling and are not affected by the following regulations."

Paragraph 6 states, "At the head of each Reich Commission shall be a Reich commissioner . . .," and then follow detailed regulations, stating that the Reich commissioners and the commissioners general shall be appointed by the Führer personally, and that consequently they could not be relieved or dismissed by me.

Paragraph 7 rules that the Reich commissioners shall be subordinated to the Reich Ministers and shall receive instructions exclusively from them wherever Article 3 is not applicable—that is, the Paragraph 3 which refers to the commanders of the Armed Forces and the Chief of the German Police.

Paragraph 9 states, "The Reich commissioners are responsible for the entire administration of their territory with regard to civilian affairs."

In the next paragraph the entire management of the German railways and mails is placed under the jurisdiction of the ministries concerned, as is not otherwise possible in war.

Paragraph 10 requires the Reich Minister, whose headquarters are specified as Berlin, to coordinate, in the highest interest of the Reich, his wishes with those of the other supreme authorities in the Reich, and in the event of differences of opinion to seek a decision by the Führer.

I need not submit to the Tribunal the Führer decree concerning Commands of the Armed Forces, since it is sufficiently clear what we are concerned with, nor the decree regarding the powers of the Delegate for the Four Year Plan, dated 29 June 1941, in which it is stated that the Delegate for the Four Year Plan—that is, Reich Marshal Göring—may also issue instructions to all civilian and military services in the Occupied Eastern Territories. Of decisive importance for an estimate of the entire legal relationship, however, and the consequence finally resulting therefrom is the decree of the Führer regarding police protection in the Occupied Eastern Territories, dated 17 July 1941. It says under Provision I as follows, "Police security in the newly occupied Eastern Territories is a matter for the Reichsführer SS and Chief of the German Police."

By this Paragraph I all security measures in the Eastern Territories were placed under the unlimited jurisdiction of the Reichsführer SS, who thereby, alongside the Reich Minister for the Occupied Eastern Territories and next to the Delegate for the Four Year Plan, became the third independent central Reich authority in Berlin, with the result that the Reich Minister for the Occupied Eastern Territories could not install a security or police department in his ministry in Berlin.

Under Provision II it states that the Reichsführer SS is also authorized, apart from the normal instructions to his police, to issue instructions directly to the civilian Reich commissioners under certain circumstances, and that he is obliged to transmit orders of fundamental political significance through the Reich Minister for the Occupied Eastern Territories, unless it is a question of averting an imminent danger. This wording gave to the Reichsführer SS the actual possibility of deciding for himself what he considered politically important in his orders and what not, and what his orders regarding the averting of impending danger concerned.

Provision III is of very great importance, since the quotation of Document 1056-PS (Volume V, Page 60) has given the Tribunal the impression that the Reich Minister for the Occupied Eastern Territories had units of the SS under his command in the Occupied Eastern Territories. Even though it appears from Provision I, which I have just quoted, that this is incorrect, a wording which is often used in connection with the powers of the SS has led to this misunderstanding. This wording is quoted under III of the Police Security Decree as follows:

“For the carrying out of police security to each Reich commissioner shall be attached a Higher SS and Police Leader who shall be directly and personally subordinate to the Reich commissioner. Leaders of the SS and Police shall be assigned to the Commissioners General, to the chief, and to the area commissioners, and shall be subordinated to them directly and personally.”

Dr. Lammers, who was charged with the drafting of these proposals, has replied upon questioning that this wording was chosen to mean that the civilian Reich commissioner could certainly give instructions to the police on political matters, but that by the choice of the words “personally and directly subordinate” the actual giving of orders was exclusively reserved for the Chief of the German Police. And, as far as I know, Himmler insisted particularly on this wording because it allowed the Reich Commission outwardly to manifest to the population a certain uniformity of administration, while, according to Reich law and in practice, the power to issue orders bypassed the civilian administration. The agreements

between Heydrich and the General Quartermaster of the Army here submitted, the contents of which I heard for the first time during this Trial, emphasize that this corresponds to the facts and point out just how these matters developed and how orders and authorizations of the police were worded.

The other decrees deal with the establishment of the Reich commissions themselves, and I do not believe that I need quote them to the Tribunal. They represent the detailed elaboration of that which has preceded.

I should merely like to refer now to the Lammers decree of 9 February 1942, which refers to technical matters and armament. I point out that, due to later wishes expressed by other agencies of the Reich, the departments for technical matters and propaganda, which had been attached originally to the Ministry for the Occupied Eastern Territories and the Reich Commission head offices, were separated from these bodies and subordinated to the corresponding ministries in such a way that Reich Minister Speer had his deputies in the Reich Commissions as liaison officers, just as the Reich Transport Minister also had; and that political propaganda instructions were to be issued by the Reich Minister for the Occupied Eastern Territories, but their practical execution left to the Reich Minister for Propaganda.

DR. THOMA: Herr Rosenberg, I think you should be a little briefer.

THE PRESIDENT: Yes, the Tribunal hopes you will.

DR. THOMA: The most important thing in the whole matter, apart from the jurisdiction of the Police and SS Leader, is your position with regard to the Plenipotentiary General for Allocation of Labor. What were the conditions regarding authority and subordination? Was Sauckel entitled to give you instructions?

ROSENBERG: The authority which the Delegate for the Four Year Plan had received from the Führer is clear-cut; and the Führer decree of 21 March...

THE PRESIDENT: The question was: "Was Sauckel entitled to give you instructions?" Then you begin to tell us about the Four Year Plan. I am sure you can answer that question directly.

DR. THOMA: I believe...

ROSENBERG: The Plenipotentiary General for Allocation of Labor had the right to give instructions to all top authorities in the Reich, and that included the Reich Minister for the Occupied Eastern Territories. This was...

DR. THOMA: That is enough. Were you entitled to tell Reich Commissioner Koch that the quotas of laborers which were required would or could no longer be fulfilled—"yes" or "no"?

ROSENBERG: I could not do that as simply as that, since the Plenipotentiary General for Allocation of Labor had been given very definite quotas by the Führer, and when these quotas appeared too large to me—and that was always the case—I would call together the Plenipotentiary General and his representatives and the representatives of the Ministry for the Occupied Eastern Territories for a conference so as to reduce the figures to a somehow bearable size; and the reduction of these quotas did, in fact, often result from such conferences, even though they still remained very high. Officially, however, I could do no more than make such representations.

MR. DODD: This defendant continues to make a speech. The question was very simple. He was asked whether he was entitled to tell the Reich Commissioner Koch that the quotas of laborers which were required could not be filled. He has now 3 minutes, and I am sure that he will take 30 minutes if he is allowed to go on. He should be kept to all elements surrounding that question.

DR. THOMA: Witness, I must underline Mr. Dodd's suggestion. I have asked you, were you entitled to tell Reich Commissioner Koch that he should not carry out this drafting of labor?

ROSENBERG: I could not do that.

DR. THOMA: Then the answer is "no." Did you, nevertheless, do so on one occasion? Did you once tell him that he should make use of his rights and powers and simply not fill these quotas?—"yes" or "no"?

ROSENBERG: Yes, I did that expressly in a letter to the Plenipotentiary General for Allocation of Labor, and the document has been presented in court. It is dated December 1942; and in that letter I officially drew his attention to many incidents which took place during this labor recruitment drive, and I requested him urgently to help me in putting an end to these intolerable occurrences.

DR. THOMA: May I ask you briefly to refer to this question of labor mobilization on the basis of the documents. They are documents which have already been presented by the United States: Documents Number 016-PS, 017-PS, 018-PS, 054-PS, 084-PS, 294-PS, 265-PS, and 031-PS. I think you can be brief about all these documents since they speak for themselves.

THE PRESIDENT: Are they in the document book?

DR. THOMA: They are partly in the U.S.A. Document Book "Alfred Rosenberg"—the special document book.

ROSENBERG: Document 016-PS is a letter written to me by the Plenipotentiary General, dated 24 April, in which he elaborates his

program. It has several times been referred to by the Prosecution, and I would like to refer you to two brief points which relate to the Reich Minister for the Occupied Eastern Territories.

On Page 17 of the document, under the title, "Prisoners of War and Foreign Laborers," Paragraph 3 at the end reads literally:

"As far as the beaten enemy is concerned—and even if he has been our most terrible and implacable opponent—it has always been a matter of course to us Germans to refrain from any cruelty and petty chicanery and always treat him correctly and humanely, even then, when we expect useful service from him."

And then it says, on Page 18, in Paragraph 5:

"Therefore in the Russian camps, too, the principles of German cleanliness, orderliness, and hygiene must be meticulously observed."

That, as far as I was concerned, was the decisive point; and I fully agreed with this principle of the Plenipotentiary General. My letter—Document 018-PS—dated 21 December 1942, is to be understood on the basis of that agreement.

DR. THOMA: Document Book Rosenberg, Page 64, Volume II.

ROSENBERG: May I summarize and explain briefly? I give therein my agreement to the solution of the problem of the Eastern Workers, and I state that we, Sauckel and myself, hold to the same principles—that is, in reference to the points of Sauckel's program which have just been quoted.

I further state that, in spite of these common principles, various unfortunate occurrences caused me to draw attention to methods not to be tolerated. On Page 2, I complain that, according to reports received by the Ministry for the Occupied Eastern Territories, various hospital barracks and camps for sick Eastern Workers, which were to be erected for allowing them recovery before returning home, had not come up to expectations, and that the Ministry for the Occupied Eastern Territories had of its own accord communicated with the Reich Commissioner for Hospitals and Health.

On Page 3, with reference to the quotas for the Occupied Eastern Territories, I state that my responsibility earnestly bound me, in filling the quotas, to exclude all methods the toleration and practice of which could one day be held against me and my officials:

"In order to attain this end, and to accord the exigencies due to the special political situation in the Occupied Eastern Territories with the measures of the commissions and staffs of your agencies, I have empowered the Reich Commissioner

for the Ukraine, insofar as necessary, to make use of his authority to eliminate recruiting methods which run contrary to the interest of the conduct of the war and war economy in the Occupied Eastern Territories."

DR. THOMA: Were you aware of the fact that, at the same time when these methods were discontinued, the workers demanded could not be shipped?

ROSENBERG: That I could not readily assume, since I knew also that right at the start of the use of propaganda in many regional commissions, a large number of volunteers from the country—not from the cities, from the country—reported, and at this point a legal basis for the prevention of incidents which had taken place in every camp—as shown by the complaints of this letter—was given the Reich Commissioner.

I might here very briefly refer to the other documents quoted by the Prosecution, Document 054-PS—that is a criticism of abuses which reached me from the liaison officer of the Ministry for the Occupied Eastern Territories with Army Group South. It is severe criticism. But I shall refer to Page 1 of the telegram, where it says in Paragraph a:

"With few exceptions, the Ukrainians in the Reich who are working individually—for example, in small workshops, as farmhands or as household employees—are very satisfied with their conditions."

But in Paragraph b:

"Those accommodated in collective camps, on the other hand, complain very much."

This was an attempt to exert influence on questions and dealings concerning a region under the authority, not of the civil, but of the military administration with its seat in Kharkov, and to exert influence even in German national territory where I, as Reich Minister for the Occupied Eastern Territories, had no right to issue instructions; but by criticism the lot of all Eastern Workers was always being improved and, to be sure, to the utmost.

Document 084-PS refers to a number of problems and measures for the improvement of the lot of the workers' families and the energy with which the Ministry for the Occupied Eastern Territories defended a policy of decent treatment of the Eastern peoples with reference to the question of pay, the deduction of taxes, *et cetera*. But I do not think I need to go any further into detail, since the Plenipotentiary General will probably do that himself. I merely refer to my constant efforts in this direction. I should also like to mention here that there was an agreement between the Plenipotentiary General and the Ministry for the Occupied

Eastern Territories according to which Eastern workers, after returning home, were to receive an allotment of land so that they would feel no prejudices against those who had stayed at home.

Document 204-PS also contains complaints regarding insufficient allowances, to which I need not refer in detail, and to which I merely allow myself to draw the attention of the Tribunal.

Document 265-PS is a report from the Commissioner General at Zhitomir, in the Ukraine, in which he states that the Plenipotentiary General for Allocation of Labor, on his tour through the Eastern territories, had personally pointed out the gravity of the whole labor mobilization program and had transmitted the unconditional orders of the Führer that these quotas must be placed at the disposal of the Reich. The Commissioner General remarks further after this serious portrayal of the situation, he had no other choice during the enrollment process than to assign certain workers to the police force to aid the local authorities which had been set up.

Document 031-PS appears to me personally to be of particular importance since the Prosecution has stated with reference to this document that I am accused of having approved of the planning and carrying out of the biological weakening of the Eastern peoples, according to a statement at the end of this document. Only the first and last portions of this document have been quoted; and I must ask that I be permitted to inform the Tribunal of the true state of affairs.

At the beginning of the document is the observation that the Reich Minister for the Occupied Eastern Territories, after he had once turned down the suggestion that young people should be transferred from Army Group Center to the Reich, was once more presented with the problem and under very special conditions and prerequisites. In the actual record it states that, in view of the fact that a large number of adults were working and had to leave the young people behind without any care, Army Group Center had the intention of resettling these youths and taking care of them in a proper manner. At the end of Page 1 of this document and at the beginning of Page 2, it states that the Minister was afraid that this action might have very unfavorable political repercussions, that it would be considered as deportation of children, and that he desired it to be greatly curtailed.

Under Point 4 it states that if the Reich Minister for the Occupied Eastern Territories would not support that action and carry it out, then Army Group Center—which, of course, was in no way subordinate to the Reich Minister for the Occupied Eastern Territories—would carry out the action on its own authority. This army group, however, was addressing itself to the Ministry for

the Occupied Eastern Territories in particular, because in their opinion—as it says literally, “the guarantee for correct political and fair dealing would be assured.” The army group would like to see this action carried out under the most inoffensive conditions. As far as possible these children should be accommodated in villages, in groups, or collected in small camps. Later on, from there they were to be placed at the disposal of small workshops.

Then, later on, it states:

“In the event of a reoccupation of the territory, the Ministry for the Occupied Eastern Territories can then in a proper way return these youths, who then, together with their parents would surely be a positive political factor in the reconstruction of that territory.”

At the end it states that under these conditions the Reich Minister for the Occupied Eastern Territories agreed to take care of these youths. I agreed because I was fully conscious of the fact that through the Youth Department of the Ministry of the Occupied Eastern Territories I would, wherever possible, be able to guarantee the greatest care for these children. I want to add that on one occasion I paid a visit to the great works at Dessau, where four and a half thousand youthful workers were employed, and where there was a separate children’s camp under the care of White Ruthenian mothers. I could ascertain that these workers were wearing very good clothes, that they were being taught mathematics and languages by Russian women teachers, and that the children’s camp tended by Russian women had a kindergarten which was looked after by the Hitler Youth. In the evening of that day the White Ruthenian woman who cared for the children thanked me, with tears in her eyes, for the humane care being given them.

I would like to point out a phonetic error which has appeared in this record. This city—as I said—was Dessau, and not Odessa as is stated in the record. I never visited Odessa in all my life.

DR. THOMA: Mr. President, we have finished the labor problem, and I am coming to the Reich Commissioners. Perhaps this would be a suitable moment to break off.

THE PRESIDENT: Can you indicate to the Tribunal how long you are likely to be with your examination?

DR. THOMA: I am of the opinion that we may be through by 3:30. However, the Defendant Rosenberg is shaking his head, and, therefore, I cannot tell you for certain.

THE PRESIDENT: Well, the Court will recess until 5 minutes past two.

*[The Tribunal recessed until 1405 hours.]*



### *Afternoon Session*

DR. THOMA: First, I wish to submit to the Court as Exhibit Rosenberg-11, Document 194-PS, the secret order of Rosenberg to Koch of December 1942 on the fitting treatment of Ukrainian civilians—dated 14 December 1942.

Witness, please give us your opinion on this general instruction in connection with your directions in Document 1056-PS.

ROSENBERG: Document 1056-PS is not a direct instruction of the Ministry for the Occupied Eastern Territories but it was the result of discussions with various central agencies of the Reich Government officially interested in the East. In this document there are contained directions of the Eastern Ministry itself, and agreements with the various technical agencies such as the Transportation Ministry, the Post Office Department, and also the Police, in order to manifest, at least in the East, a certain unified civil administration. For the reasons which I have enumerated at the beginning this was no longer possible, and as far as the other questions of the subordination of the SS and Police Leader are concerned, to which I have referred the Prosecution on the basis of this document, I might indicate what I took the liberty of saying at the beginning in connection with the comment on the staffing of the administration of the Eastern territories, dated 17 July 1941.

However, as far as Document 1056-PS is concerned, I would like to point out that among the seven points which are especially stressed here, only the third point, "Care of the Population," is quite expressly mentioned. Then, further along in the document it is again explained that this supplying of the population with food-stuffs and so forth is to be given special attention and that the problems of medical and veterinary help are to be given special consideration, even calling upon military authorities if necessary. Except for that I do not wish to go into this document further.

The Document 194-PS is unfortunately the only piece of instruction of the Reich Minister for the Occupied Eastern Territories to the Reich commissioners that could be found. It is an instruction dated 14 December 1942, in which once again the humane and political attitude to be taken is prescribed. It is emphasized in the beginning—I permit myself a few short references—that German behavior should never give the impression that the Ukraine had no hope at all for the future; that directives of German offices were to be executed but should be given great thought. It says further:

"The people of the East have at all times seen in Germany the bearer of a legal order, which although bound by severity, is not an expression of arbitrariness. If one is able to make

it clear to the peoples of the East by appropriate legal measures that although the war brings fearful hardships, yet transgressions will be justly investigated and judged, then these peoples will be easier to govern than if the impression of an arbitrary tyranny such as theirs is given."

It continues:

"The elementary school with its 4-year curriculum should be strictly adhered to and should be followed by a proper technical school training for practical life. The German administration needs men for veterinary work, transportation, farming, geological research, *et cetera*, whom the German people is not in a position to supply. In these fields, the Ukrainian youth taken away from the streets can be roused to the consciousness of collaboration in the reconstruction of their country. In doing this, it would be inadmissible for German offices to confront the population with contemptuous remarks. Such an attitude is not worthy of the German."

Then further:

"One becomes master by adopting a fitting attitude and behavior but not by overbearing conduct. Not by pretentious speech does one govern peoples, and not by ostentatious disdain of others does one win authority."

Then, several other questions are dealt with in this directive, but I do not wish to take up the time of the Tribunal too much with these details. I was interested in showing in what sense I wanted to form the attitude of the civil administration, and in order not to have this directive shelved in the large offices I decreed that it was to be read in all offices.

DR. THOMA: Mr. President, I should like now to turn to the special charge of the Soviet Prosecution and in particular to refer to those documents that pertain to Rosenberg's Einsatzstab in the East and to the alleged destructions. Therefore, I will submit to the defendant Exhibit USSR-376 (Document 161-PS), Exhibit USSR-375 (Document 076-PS), Exhibits USSR-7, 39, 41, 49, 51, and 81.

*[The documents were submitted to the defendant.]*

THE PRESIDENT: Are any of these in your document books?

DR. THOMA: The documents of the U.S.S.R., the ones I mentioned last, I do not have in a special document book. But I assumed and ascertained early this morning that these documents had been submitted to the Tribunal: USSR-39, 41, 251, 89, 49, and 353.

THE PRESIDENT: I was asking only for what purpose you were referring to them now. Of course we haven't all the books here. They are not in your books?

DR. THOMA: Number 161-PS is in Document Book 3, Page 34. Nothing else is mentioned in the document book.

THE PRESIDENT: Very well.

ROSENBERG: The Document 161-PS deals with an order for the bringing back of certain archives from Estonia and Latvia. The Soviet Prosecution have concluded from this that there was a plundering of the cultural treasures in these countries. I would like to state that the instructions which I had read from Document 1015-PS requested in an unequivocal manner that all these cultural objects were to remain in the country. And that was done. I permit myself to refer to the date of that document, which is 23 August 1944, when combat activity had spread over this territory, and when these cultural objects and archives were to be safeguarded from combat activities. It was here a matter of having the afore-mentioned archives sheltered in Estonian country estates. That is, they were still to remain in the country itself, even in the midst of combat activity. As far as I know some of these archives were still brought to Germany later and I believe they were safeguarded in Schloss Höchststadt in Bavaria.

Document 076-PS has been used by the Prosecution as proof of a plundering of the library treasures in Minsk. We are concerned here with a report which a deputy of the commander of the rear area had issued and which was directed to the Ministry for the Occupied Eastern Territories. From this report we can see in fact that some destruction had taken place in certain libraries, but that that was a consequence of troops having been quartered there, because the city of Minsk had been destroyed and the billeting facilities were overburdened.

But then under Number 1, and again under other paragraphs, it is expressly shown that posters had been put up everywhere, and that these things were put under control and were not to be touched after that. It is added that any further removals would have to be considered as plundering.

Under Number 2, I would like by all means to point out that it has been confirmed here that the most valuable part of this library of the Academy of Sciences came from the library of the Polish Prince Georg Radziwill, which the Soviet authorities had taken from the occupied Polish territory to Minsk and had incorporated into the library of the Academy of Sciences long before any other state or other German offices were active in that area. There are a number of other documents, namely, 035-PS and several others already submitted to the Tribunal, which make statements about the taking back of cultural objects from the Ukraine too. The date on these documents, that is, the year 1943, shows also that these cultural objects remained in the country

until then, as had been ordered, and that only when combat activity made it necessary, was a withdrawal carried out. Document 035-PS says, on Page 3, Number 5:

"The infantry division"—concerned—"attaches great importance to the further evacuation of valuable institutions since the Armed Forces can in no way protect this area sufficiently and bombardment by artillery is to be counted on shortly."

DR. THOMA: I would like to submit this document under Rosenberg-37; it has not yet been submitted.

ROSENBERG: It then adds: "Wehrmacht equipment, means of transportation, *et cetera*, shall be provided as far as possible by the...infantry division."

DR. THOMA: May I have the document again? [*The document was handed to Dr. Thoma.*] I would like to submit it to the Tribunal.

ROSENBERG: The evacuation then actually took place under artillery bombardment, and hence cultural objects which had come from Kharkov and other cities also during combat, were transferred only then to Germany.

Now I would like to deal with the documents which the Soviet Prosecution have given in detailed presentation of the Extraordinary State Commissions for Estonia, Latvia, and Lithuania. I would like, in this connection, to discuss just a few concrete details:

On Page 1 of the Document USSR-39 it states:

"From the beginning of their occupation of the Estonian Soviet Socialist Republic, the Germans and their accomplices destroyed the independence of the Estonian people and then tried to establish a 'new order'; to demolish culture, art, and science; to exterminate the civilian population or to deport them as slave labor to Germany; and to lay waste and plunder cities, villages, and farms."

I should like to remark in that connection, first of all, that the 20-year independence, after the Soviet attack in 1919, was broken by the marching in of the Red Army in 1940, a standpoint that is...

GEN. RUDENKO: Mr. President, it seems to me that the document which is now being looked over by the Defendant Rosenberg, naturally gives him a basis for replying to the concrete accusations of his criminal activity while he was Reich Minister for the Occupied Eastern Territories. However, I am of the opinion that what the Defendant Rosenberg has said just now is plain fascist propaganda and has naturally nothing to do with the matter.

DR. THOMA: Mr. President, if the Defendant Rosenberg makes a few introductory remarks to his statement on the document from

which he wants to quote, I ask that he not be interrupted right away. We will deal with a few pertinent statements taken from the document.

ROSENBERG: So far as Point 2 is concerned, I would like to remark . . .

THE PRESIDENT: Is this document he is dealing with, a document that he wrote himself or had anything to do with? I haven't got the document before me.

DR. THOMA: The document has been submitted by the U.S.S.R. and it contains charges against Rosenberg—charges of having undertaken demolitions and expropriations in these territories, and he is entitled to state his position with regard to this.

THE PRESIDENT: But when you say "his question," can't he say what he did in connection with the document, or the subject of the document? I mean, when you say "state his position," it is such a very wide phrase it may mean almost anything. If you ask him what he did in connection with the subject of the document it is different, but it is more concrete and special.

DR. THOMA: What did you do in these occupied areas, contrary to the assertion of the Soviet Prosecution?

ROSENBERG: To refute the assertion that I destroyed culture and art and science in Estonia, I must point out that one of the first directions of the Eastern Ministry was to establish indigenous administrations in these three countries and to have the German administration in principal serve as a supervisory body. The limitations due to the war conditions were naturally given in times of war; they applied to spheres of war and armament economy, to the sphere of police security, and naturally to the political attitude in general.

A complete cultural autonomy was enjoyed by Estonia and Latvia as well as by Lithuania; their art and their theaters were active all through these years; many faculties of the university at Dorpat functioned and so did some faculties in Riga; the judicial sovereignty of these countries was under the power of the indigenous administration—national directorates as they were called—with all the authoritative departments necessary for the administration. The entire school system remained untouched. I visited these territories twice, and I can say only that the commissioners in charge there did everything to work as closely as possible in accordance with the desires of the indigenous administration which often expressed itself with criticism regarding the German administration, although, frankly speaking, we could not quite fully recognize the political sovereignty in the midst of war.

On Page 2 of this document it is stated, under corporal punishment for office employees, that the intruders had prescribed corporal punishment of Estonian workers in accordance with the regulation of the railway administration of 20 February 1942, for neglect of work or if the employee came drunk to work. This regulation of the director of the railway administration corresponds with the facts. But when this regulation was made known, of course it aroused the indignation of the German civil administration. Reich Commissioner Lohse at once annulled it, and we asked the Reich Minister of Transportation to have this impossible official removed. This took place immediately; he was disqualified and called home, and the fact that he was recalled was to be made known in the press. However, I cannot say whether it actually appeared in the press.

On Page 5 of this document, in Paragraph 2, it is set forth that the Germans destroyed historical edifices, that they had searched through and destroyed the Tartu—that is, the University of Dorpat which had a glorious past of more than 300 years, and was one of the oldest seats of higher learning.

Now I would like to add that these houses dating from the 17th and other centuries were constructed by Germans exclusively, and that German troops would certainly not be interested in destroying arbitrarily the houses of their own people. Secondly, this 300-year-old University of Dorpat was a German university for 300 years, which in fact supplied Russia and Germany with scholars of European repute.

**THE PRESIDENT:** That is quite irrelevant, quite irrelevant. The question is whether it was destroyed.

**ROSENBERG:** In the year 1942 I was once in Dorpat. A large part of the city had been destroyed through combat activity, but the university buildings were still standing. In this connection I had the opportunity to learn that the Einsatzstab Rosenberg in the Ukraine could confiscate 10,000 to 12,000 volumes belonging to the University of Dorpat and restore them again to their rightful owner.

I consider it out of question that an arbitrary destruction of this old German university could have been carried out by German troops and I can assume only that it was the result of combat activity, if a destruction actually had taken place.

As far as the other details of the document are concerned, I cannot define my position. It deals with many shootings of a police nature, matters clearly connected with combat activity, and I cannot make any statement about this, since it obviously refers to the time of the retreat.

The Document USSR-41 deals with the report of the Extraordinary State Commission on matters in Latvia. I would like to correct and say that the headquarters of the Foreign Minister were not at Riga, but that he had his regular office exclusively in Berlin.

In Paragraph 4 it is said:

“The Germans confiscated the country of the Latvian peasants for their barons and landowners, and mercilessly exterminated the peaceful population—men, women, and children.”

I would like to state in this connection that not a single farm was given up to the German barons of former times during the period of civilian administration, but the German administration of the country issued a decree which, in my opinion, was a singular, progressive piece of legislation. For this land, belonging to Germans for 700 years and expropriated by the young Estonian and Latvian Republics almost without compensation, could certainly have been returned easily to the Germans. But I signed a law in March, either 1942 or 1943—I do not know—the so-called Restitution Law (Reprivatisierungsgesetz), which legally guaranteed the Estonian and Latvian peasants the German property ceded to them at that time and handed over by solemn charters. With the occupation by the Soviet Union, a collectivization of this private farm property was introduced, and what it deals with is that this collectivization was abolished and therefore the former owners of 1919 came again into possession of their property.

I would like to mention the following in explanation of this statement. On Page 2 it is stated:

“For more than 3 years the Germans have made it their task to destroy factories, public works, libraries, museums, and homes in the Latvian cities.”

I myself have been in Latvian art museums, have seen a great Latvian art exhibition; I have been in the Latvian State theater, in which all performances were in the Latvian language, with just a few German guest conductors and singers. Factories were not destroyed in these 3 years of administration but their productivity was increased by numerous German machines: Of course this caused many protests from the native owners, because it was accompanied by an uncertainty about their own participation; but in any event there was no destruction, rather an increase in productive capacity.

And finally, as far as the archives and libraries are concerned, I have already said what is necessary in connection with Document 035-PS.

In regard to the extermination of 170,000 civilians, I cannot take any position as to what transpired in the police camps on grounds of police security. I would like to point out, however, that according

to official statements of the indigenous administration, in the first place more than 40,000 Estonians in Estonia and more than 40,000 Latvians in Latvia were deported to the interior of Soviet Russia after the Red Army occupied these countries. And further that a large number of Latvians and Estonians volunteered to fight the Red Army and that at the retreat hundreds of thousands of Estonians and Latvians asked to be taken to the Reich and many actually arrived there. The entire population of Latvia was about 2 million. That the German authorities should have shot 170,000 Latvians seems improbable in the highest degree.

However, regarding other alleged destructions committed during combat activity, I am not able to take a stand.

The third document, USSR-7, deals with the reports of the Extraordinary Commission on Lithuania. On Page 1, Paragraph 2, it states that Reich Minister Rosenberg tried to germanize the Lithuanian people and to exterminate the national culture. Lithuania was proclaimed a part of the German "Ostland Province."

In Lithuania the peasant question was treated the same way as in Estonia and Latvia. Of course there was one difference insofar as Lithuania had a larger number of small German peasant farms which at the end of 1939 were taken into the German Reich, and when the Germans marched into Lithuania they were returned to their original farms and were settled in as concentrated a manner as possible in certain settlement districts. That corresponds to the facts; to the rest I cannot agree.

As far as the extermination of national culture is concerned, that does not seem to me a true representation either. On the contrary, I know that the staff of my office was very much interested in collaborating with the representatives of the Lithuanian folklore research, and that many studies were written on this exemplary folklore work in Lithuania and Latvia, and I cannot imagine that any arbitrary destruction took place here. I can remember only that administrative officials from the capital, Kauen or Kaunas (Kovno), came to me at the time of the withdrawal and said that they had worked in Kauen for 5 days, even though the city was already under Soviet artillery fire, by which, of course, many buildings were destroyed in combat activity; I am not able to say anything about that from personal experience.

Now I pass to Document USSR-51. In the Note of the Peoples' Commissar for Foreign Affairs, of 6 January 1942, the destruction of cultural values of Lithuania, Latvia, and Estonia is also given introductory mention. I refer to what I have already said in reference to the documents that were just submitted. On Page 2, Column 1, it is also stated that the Germans pillaged and murdered the peasant population without restraint. Here, too, I would like to



refer again to the declarations I have just made. On Page 6, Column 1, at the beginning, it says that the Germans in their rage against Latvia, Lithuania, and Estonia destroyed all national cultures, national monuments, schools, and literature. But this, as I have just stated, is not in accordance with the facts. The Note of the Peoples' Commissar for Foreign Affairs of 27 April 1942, which has been read here repeatedly and in detail, makes on Page 1, Column 1, the same assertion that here the pillage of the territory of the Soviet State had been carried out. I refer to the statement I have just made.

On Page 7 it is stated that the Germans intended and actually executed wholesale robbery of the land given free of charge by the Soviet Government to the collective farms (Kolkhozes) for their permanent use. I do not wish to make any statements on this special question here. State Secretary Riecke, whom the Tribunal has approved as witness, will make his expert statements on the law for the new agrarian order issued to strengthen farming in White Ruthenia and the Ukraine.

As the Soviet Prosecution withdrew the charge against me of having been a former Czarist spy, I do not need to go into that. I also cannot, of course, check in detail the various quotations which have been submitted here. But in one case it is possible for me to give an explanation here. It is on Page 9, Column 1, at the top, where the Foreign Commissar's so-called "Twelve Commandments" for the behavior of the Germans in the East is mentioned. There follows a quotation from which it can be concluded only that it is an unbroken quotation from a German directive. These 12 commandments have been submitted by the Soviet Prosecution to the Tribunal, under Exhibit USSR-89 (Document USSR-89). It deals, as it has been established, with a directive of the State Secretary Backe, of the beginning of June 1941, a directive which I have learned of only here. This apparently unbroken quotation of the Foreign Commissar proves to be a compilation of fragments of sentences which were actually dispersed over a page and a half of the document, and these fragments, moreover, have not been given in their proper sequence, but in a completely different sequence from that in the document. But I would like to call your attention to a few changes in the wording.

Under Point 6 of the commandments:

"You must therefore"—this is directed to the agricultural leaders—"you must therefore carry out with composure the most severe and ruthless measures that are demanded by the national requirements. Deficiencies in character on the part of the individual will lead to his recall as a matter of principle."

Anyone who is recalled for such reasons can no longer have an authoritative position in the Reich."

In the quotation of the official note it says:

"Therefore, you yourself will have to take with composure the most cruel and ruthless measures that are dictated by German interests. Otherwise you cannot have any responsible positions at home."

Therefore, instead of the word "severe" the word "cruel" has been substituted: in place of "national requirements" it says very generally "German interests"; and in place of the reference to a "lack of character" it is set down quite generally that if one does not thus take the most cruel measures one cannot have any responsible positions. I would not want to identify myself otherwise in any way with these 12 commandments, but I would like to state that on Page 3 under Point 7 it says:

"But be just and personally decent, and always set a good example."

And in part 9:

"Do not spy on Communists. The Russian youth has been trained for communism for two decades. Russian youth does not know any other education. It is therefore senseless to punish them for the past."

I believe that also there, Herr Backe who otherwise used stronger language, does not mean any regulation for extermination.

Now, I am passing to the charge by the Polish Government. It concerns me in one point only. On Page 20, under Point 5, it is stated that the exploitation, plundering, and the carrying off of art objects, *et cetera*, from museums and collections of all kinds, was centralized under the office of Rosenberg in Berlin. That is incorrect, as has been shown by the report of State Secretary Mühlmann, which has been read here many times and which shows that an entirely different department was set up for the safeguarding of these works of art. Furthermore, I read today a decree by Dr. Lammers, dated, I believe, 5 July 1942, in which the Government General was expressly excluded.

I must, however, admit that in one case in the beginning, the Einsatzstab confiscated a German collection of music and it was taken to the Reich for purposes of research. This action was not right, and from a correspondence with the then Governor General Frank that must also be here in my file, it is shown that we had agreed that this collection was to be returned to the Government General as a matter of course after a scholarly survey had been made, which I, to be sure, requested.

The incorrectness of this charge may be seen also from the fact that it is contended here that I had in the Einsatzstab among the various departments also an office "East" for Poland. The incorrectness of this statement may be gathered from the fact that the so-called special purpose staffs which were established for music and the plastic arts in the East were actually expert special staffs, and besides them the so-called working groups had regional tasks. I could, therefore, not have had an office "East" for Poland and at any rate the term "Poland" was never used in official circles—only the term "Government General." I believe I can limit myself to this explanation. In addition, there have been presented a number of other general documents from Smolensk and from other cities, referring to much destruction and police measures. I cannot testify here concerning these points.

In conclusion I would like to refer only to Document 073-PS, which a few days ago was submitted to the witness Dr. Lammers. This document is concerned with the transmission of a document of the Foreign Office, in which some mistaken information was given after it had been said that the Soviet prisoners of war were under the command of the Reich Minister for the occupied Eastern countries.

In the introduction, it can be seen that here we are concerned exclusively with the doctrinary care and propaganda work which Minister Goebbels considered his province, rather than that of the Foreign Office. The Foreign Office stated that it had leading jurisdiction over all prisoners of war with the exception of this moral and propaganda care of the Soviet prisoners of war, which in this respect were attended to by the Minister for the Occupied Eastern Territories, because these prisoners did not come under the provisions of the Geneva Convention. This statement, that they were not bound by the Geneva Convention, was the legal opinion issued by the Führer's headquarters for the setting up of the administration in the Occupied Eastern Territories.

DR. THOMA: Witness, in the course of these proceedings you have been accused at least four times in the matter of gold dental fillings in the prison in Minsk. In this connection a document has even been submitted, regarding the handling of the Jewish question, and a further document deals likewise with an arson and anti-Jewish "action," also in the district of Minsk. Will you please tell us what you have to say in that connection?

ROSENBERG: I might perhaps give the following general answer about the many files and reports from my office: In the course of 12 years of my Party office and 3 years in the Eastern Ministry, many reports, memoranda, carbon copies from all sorts of divisions were delivered to my office. I know of some of them, of some I

received oral knowledge which was then entered in detail in the files, and there are a great number of more important and some entirely unimportant things which I was entirely unable to take note of during these years.

As far as these documents are concerned, I must say with regard to Document 212-PS, that this clearly represents a submission to my office—which is without heading, without signature, and without any other details—which I never received personally, but which I assume was probably delivered from police circles to my office. Thus, with the best intentions I cannot state my position as to the contents of this document.

As far as Document 1104-PS which deals with the terrible incidents in the city of Sluzk is concerned, that is a report from October 1941, and I must say that this report was submitted to me. This report aroused indignation in the Eastern Ministry, and as is seen here, my permanent representative, Gauleiter Meyer, sent a copy of this complaint of the civil administration, together with all the criticism of the civil administration, to the Police, to the Chief of the Security Police, at that time Heydrich, with the request for investigation. I must say that the Police had their own jurisdiction, in which the Ministry for the Occupied Eastern Territories could not interfere. But I am unable to say here what measures Heydrich took. Yet, as may be seen from this, I could not assume that an order—which was attested to by the witness here yesterday—was given to Heydrich or Himmler by the Führer. This report, and many other communications which came to my ears, regarding shootings of saboteurs and also shootings of Jews, pogroms by the local population in the Baltic States and in the Ukraine, I took as occurrences of this war. I heard that in Kiev a larger number of Jews had been shot, but that the greater part of the Jews had left Kiev; and the sum of these reports showed me, it is true, terrible harshness, especially some reports from the prison camps. But that there was an order for the individual annihilation of the entire Jewry, I could not assume and if, in our polemics, the extermination of Jewry was also talked about, I must say that this word, of course, must make a frightful impression in view of the testimonies we think are available now, but under conditions prevailing then, it was not interpreted as an individual extermination, an individual annihilation of millions of Jews. I must also say that even the British Prime Minister, in an official speech in the House of Commons on 23 or 26 September 1943, spoke of the extermination in root and branch of Prussianism and of National Socialism. I happened to read these words from this speech. However, I did not assume that in saying this he meant the shooting of all Prussian officers and National Socialists.

Regarding Document Rosenberg-135 (Exhibit USA-289) I would like to say the following: It is dated 18 June 1943. On 22 June, I returned from an official visit to the Ukraine. After this official visit I found a pile of notes about conferences. I found many letters and, above all, I found the Führer decree of the middle of June 1943 which had already been given verbally, in which the Führer instructed me to limit myself to the basic principles as far as legislation was concerned, and not to interest myself too much with the details of the administration of the Eastern Territories. I was dejected when I returned from this journey and I did not read this document. But I cannot assume that this document was not at all mentioned to me by my office. My subordinates were so conscientious that I can assume only that in the course of their reporting to me about many documents, they told me that another great disagreement between the Police and Civil Administration was again at hand, as there had been many disagreements of that nature before and I perhaps said, "Please give this to Gauleiter Meyer or give it to the police officer, to the liaison officer so that he can investigate these matters." Otherwise these terrible details would have remained in my memory. I cannot say any more in regard to this subject than I was able to say when it was brought up in the interrogation.

DR. THOMA: I submit to the Tribunal the Exhibit Rosenberg-13, a memorandum from Koch to Rosenberg, a complaint about Rosenberg's criticism and justification of his policy in the Ukraine, dated 16 March 1943, and a letter from Rosenberg to Reich Minister Lammer: dated 12 October 1944, in which he states to the Führer his wish to resign. May it please the Tribunal, regarding Rosenberg-13, memorandum from Koch to Rosenberg...

THE PRESIDENT: What number?

DR. THOMA: Rosenberg-13, Document 192-PS, Document Book Number 2, Page 14; I would like to read this to the Tribunal personally and to make the following introductory remark.

THE PRESIDENT: It is a very long thing, Dr. Thoma. You do not need to read it all, surely?...

DR. THOMA: I shall not read all of it, Your Honor. But I have unfortunately only the opportunity of presenting State Secretary Riecke as an official of the Ministry for the Eastern Occupied Territories. The Tribunal, however, even from this witness, who will appear before them, will be able to see that the best officials which the German Reich had, were used in the Ministry of the Occupied Eastern Territories and that every individual complaint was conscientiously checked. It is not so, that in addition to what we have heard today numerous other crimes have been committed

which have not come to the knowledge of the Tribunal, but I believe that everything has been exhaustively presented of the "admittedly terrible things" that happened in the East during these 4 or 5 years. And the question now is how Gauleiter Koch responded to it.

**THE PRESIDENT:** The Tribunal are simply asking you not to read the whole of the document which covers many pages. That means you can go ahead and read the essential parts of it.

**DR. THOMA:** Therefore, I would like to assert that each and every complaint which was received by the Ministry for the Occupied Eastern Territories was followed up. Gauleiter Koch writes:

"Various recent decrees of the Reich Minister for the Occupied Eastern Territories, in which my work was criticized in an exceptionally severe and offensive manner and from which have resulted misinterpretations of the policies as well as my legal position, have induced me to present this report to you, Mr. Reich Minister, in the form of a memorandum."

And then follow remarks which show that the Ministry for the Occupied Eastern Territories investigated the complaints. He complains:

"On 12 January 1943, for example, I was informed by the Ministry that Anna Prichno of Smygalovka, an Eastern Worker, had objected that her parents who remained in the Ukraine could not pay their taxes. I was asked to cancel these taxes or to reduce them by half and also to report how I decided."

On Page 13:

"Lately numerous individual complaints from Eastern Workers employed in the Reich have been passed on to me and on each single case I have been asked to give a report, usually on such short notice that it was impossible to comply with the request."

On Pages 15 and 16:

"Hence, I found it strange"—writes Gauleiter Koch—"to have the decree I/41 of 22 November 1941 state that the Ukrainian people were strongly permeated with German blood, which fact is to account for their remarkable cultural and scientific achievements. But when on top of this a secret decree of July 1942, to which I will refer more closely at the end of this section, declares that very many points of contact exist between the German Ukrainian people, one is no longer only surprised but astonished. This decree demands not only correct but even amiable manners in dealing with Ukrainians."

Then:

"In the following I would like to give a few more examples of lack of reserve towards Ukrainians. For instance, by decree of 18 June 1942, II 6 f 6230, I was informed that you were procuring a total of 2.3 million Reichsmark worth of Ukrainian schoolbooks, charged to my budget without even contacting me about it previously."

THE PRESIDENT: Do you think it necessary to read all this? I am not quite sure how far you have gotten because I have been reading on.

DR. THOMA: Mr. President, may I make a remark in this connection? I have already limited my selection. This memorandum is quite a thick copybook; however, I will try to be still more brief, and want only to emphasize that on every page you will find a complaint about the conscientiousness with which Rosenberg followed up all these individual complaints. But I will be very brief:

"It is not necessary that your Ministry stress over and over again as it does by many written and telephone protests that any violence in recruiting of workers has to be discontinued."

And then there is one further very brief remark:

"And if I issue more decrees against floggings than actually take place, I will make myself ridiculous.

"That happened a few times, and every single case was strongly censured."

And now we come to something very important, Your Honors, namely, how Gauleiter Koch threatens representations to the Führer, and says:

"Nobody has ever asked me, as an old Gauleiter, to submit to him articles I write, for nobody but the Führer can ever absolve me of the political responsibility that I bear for an article signed with my full name . . .

"Finally, in addition to these statements on my responsibility I should like to allude to the relations between the Führer and the Reich commissioners. As an old Gauleiter I am accustomed to go to my Führer directly with all my problems and requests, and this right, in my capacity as Oberpräsident, has never been denied me even by my superior minister . . .

"By decree I 6 b 4702/42, I was ordered to abstain from referring to the wishes of the Führer in my reports to you, as the forwarding of the Führer's wishes were your affair exclusively. I must state here that in my position as an old Gauleiter the Führer has repeatedly given me his political directives . . .

"If one takes away or curtails the position of the Reich commissioners in relation to the Führer, then very little remains in keeping with the position of the Reich commissioner."

On Page 50 he says:

"I have to state expressly that I must, under these circumstances, refuse to accept responsibility for the success of the labor recruiting and the spring planting."

Rosenberg recommended to him to go on with the recruiting of labor.

At the end he says:

"My position has been encroached upon by you so often in the last 3 weeks that it can be restored only by the Führer."

Thereupon a conflict developed in Hitler's presence at the Reich Chancellery among Rosenberg, Bormann, and Koch, and the result was that Bormann and, in the main, Koch, were upheld and the Defendant Rosenberg was notified to limit himself to matters of principle only.

Thereupon the defendant submitted his resignation.

Now, I ask the defendant to go into this in more detail. It is in Document Book 2, Page 27.

ROSENBERG: I would like to remark . . .

THE PRESIDENT: Dr. Thoma, I think we had better adjourn now for 10 minutes.

*[A recess was taken.]*

DR. THOMA: Witness, some days ago the document was mentioned from which it becomes clear that the forest district of Zuman was to be the private hunting ground for the Reich Commissioner, and that hundreds of people were shot, because resettling them would have been too complicated and take too much time. Will you make a statement about that?

ROSENBERG: As time went by I received much information regarding instances of acts of violence committed in the East. Upon investigating, it was found very often that these reports did not conform with the facts. In this case this report appeared to me quite credible so I took the opportunity to report it to the Führer directly, considering that I was having trouble with Gauleiter Koch.

Apart from other questions—schools in the Ukraine, establishment of technical schools, and certain personal statements of Koch which I submitted as a complaint—I also submitted this report.

At the audience with the Führer, Reich Commissioner Koch submitted an opinion of the Chief of the Forest Administration of the



Ukraine. From this it appeared that these forest districts had to be used for supplying timber either for railway ties or other emergency needs. And since various guerrilla units and partisans had flocked together in these wooded districts and such a task was extremely dangerous owing to the insecure situation, it was established that Koch, not in the interest of the hunting earlier contemplated, but for this reason, had ordered a cleaning up of this district; and in the course of this cleaning up a considerable number of partisans had been found and they had been shot. The remaining population from these forest districts had been resettled, and, as Koch added, in addition to this statement of the Chief of the Forest Administration, a number of these resettled persons had even expressed gratitude for the fact that they had received better soil to work than they had in these forest areas. On receiving these reports from Koch the Führer shrugged his shoulders and said:

"It is difficult to decide here. According to the statement of the Forest Administration for the Ukraine that I have here, I must leave the matter alone, and the other decisions regarding Ukrainian policy will be sent to you."

This happened in July in the shape of a decree which is also in my files, but which, unfortunately, has not been found. It is a decree about which the witness Lammers has spoken and which in principle states that the Reich Minister should cause no obstruction, the Minister for the East should confine himself to basic matters, should submit his decrees to the Reich commissioner for his opinion and, in the event of conflict, the decision of the Führer must be secured.

After this decree of the Führer I made a renewed attempt to represent the views which I considered right. But, of course, I will not deny that on several occasions, due to pressure from the Führer's headquarters, I became a little weary. And when it was said, and said in clear-cut terms, that I was apparently more interested in these Eastern peoples than in the welfare of the German nation, I made some appeasing statements; but my decrees and the further application of my instructions continued in the old way. As I have now been able to ascertain, I reported to the Führer personally on eight different occasions on this matter, and I submitted written petitions and formulated my decrees with this aim in mind.

When then, in 1944, the Reichsführer SS, too, occupied himself not only with police affairs, but also with policy in the Eastern territories, and when I had not been able any longer to report to the Führer's headquarters, since the middle of November 1943, I made one last attempt to make a suggestion to the Führer regarding a generous Eastern policy. At the same time, I asked very clearly, in the event of a refusal, to be relieved from any further work. This

document (Document Rosenberg-14) is a letter to Dr. Lammers of 12 October 1944, at the beginning of which it is said that:

"In the face of current developments in the Eastern problem, I beg you to submit the accompanying letter to the Führer personally. I consider the way and manner in which the German policy in the East is being handled today as very unfortunate; while I have not participated in the negotiations, I am nevertheless made responsible for them. Therefore I beg you to submit my letter to the Führer as soon as possible for his decision."

Dr. Lammers then immediately transmitted this letter to the Führer's secretary, Bormann. In the letter to the Führer it says on Page 2:

"For observation and the steering of this development I have created regional offices for all the Eastern peoples in the Ministry for the Occupied Eastern Territories, which can now, after many tests, be regarded as suitable for their purposes and well set up. They also contain representatives from the various regions and races concerned, and if it seems in the interest of German policies, these may be recognized as a special national committee."

These central offices mentioned here had the task of seeing to it that the representatives of all Eastern peoples received personally the complaints of their countrymen who were in sovereign German territory and presented them to the Ministry of the Occupied Eastern Territories which in turn would take up these complaints with the German Labor Front authorities, with the Police, or the Plenipotentiary General for the Allocation of Labor.

On Page 5 it says then:

"I have informed the Reich Minister and the Chief of the Reich Chancellery what the Eastern Ministry has done in the sphere of political direction in a letter dated 28 May 1944, and I am asking you, my Führer, to have the contents read to you."

This is a reference to a further statement.

On Page 6 it states:

"I am asking you, my Führer, to tell me whether you still desire my activity in this field, for since it has not been possible for me to report to you orally, and the problems of the East are brought to you and discussed from various sides, I must, in consideration of this development, assume that you perhaps consider my activity as no longer necessary."

"In addition rumors are spread by sources unknown to me of the dissolution of the Ministry of the Occupied Eastern Territories; in fact it is said that these rumors are used in official

correspondence to the highest Reich authorities because of various demands which have been made. Under such circumstances fitting work is not possible, and I ask you to give me directives as to how I should act in view of the state of affairs which has developed."

In the middle of the next paragraph, I point out the following, from ideas that I voiced first in my speech of 20 June and in my protest during the meeting of 16 June. And it says here literally:

"This plan provided that in order to mobilize all the national forces of the Eastern peoples, they should be promised in advance a certain autonomy and the possibility of cultural development, with the aim of leading them against the Bolshevik enemy. This plan, which in the beginning I ventured to assume you approved of, has not been carried out, because the peoples were treated in a way which was politically opposite to this.

"Solely and only because of the agrarian order of 1942, approved by you, has their willingness to work been maintained to the end in view of a certain hope of acquiring property."

Attached to this letter to the Führer there is the suggestion for the adjustment of the Eastern policy, which is reiterated for the last time. And in Paragraph 2 in the middle of Page 2 it says:

"These regional and local offices for the peoples of the East, attached to the Reich Minister for the Occupied Eastern Territories, are, in the name of the Reich Government, to be recognized by him as national committees at a date to be fixed by the Führer. The term 'National Committee' is to be understood by the Reich Government to mean that these authorized spokesmen can submit the wishes and complaints of their peoples."

On Page 2 in the middle, it says:

"In the leadership of the peoples of the East..."

THE PRESIDENT: Is the Tribunal interested in all this detail? The substance of it has been given by the witness, has it not? He summarized the whole letter before he began to read any of it. There is nothing new up to now.

DR. THOMA: Mr. President, the defendant wanted to summarize again briefly what his ideas were for the Ukraine, namely, autonomy, free cultural development; and that was the core of the difference with Koch, namely, that Koch stressed mainly the idea of exploitation; therefore the defendant wanted to say once more what was the whole plan of his intentions towards the Soviet Union. But this topic can now be dropped.

Before I make a statement about the question of the willingness to do construction work in the Ukraine I want to have the defendant make a statement on the subject of the treatment of prisoners of war. Document 081.

THE PRESIDENT: Is it anywhere in your books? Is it Document 081-PS?

DR. THOMA: It has been submitted under a USSR exhibit number.

*[The document was submitted to the defendant.]*

Have you got it, Defendant?

ROSENBERG: It is Exhibit USSR-353. The complaints regarding prisoners of war came from various sources. Fairly near the beginning they were already lodged with the Eastern Ministry; then later on, particularly during the winter 1941-1942, they were brought by passing officers or soldiers and were reported to me by my political department. We then passed these complaints on to the competent military offices with a request that, for obvious reasons, they should be given consideration.

These complaints were received frequently and my staff, as time went by, stated to me that they encountered a great deal of understanding for these wishes, particularly for the wish expressed by us that prisoners from this large number of Soviet prisoner-of-war camps should be selected according to their nationality and taken to small camps, because through this national segregation, good political and humane treatment would be best guaranteed. In view of the numerous complaints about the death of many thousands of Soviet prisoners, I received more than once reports that during battles of encirclement, units of the Red Army had defended themselves in the hardest way and had not surrendered. In fact they were completely exhausted from hunger when they finally were captured by the Germans, and even numerous cases of cannibalism had been established, born of their tenacity not to surrender in any case.

The third complaint I received was to the effect that political commissars were shot. This complaint too was passed on by us. That an order existed in this connection was unknown to me. We concluded from other reports that here clearly there must have been a political or police reprisal, since we heard that many German prisoners, who later were freed, were most of them found, again dead or mutilated. Later on I was informed that such shootings were prohibited, and thus we assumed that the political commissars also belonged to the regular Red Army.

Now here is Document 081-PS. It has been stated by the Prosecution that this is a letter from the Minister for the Occupied Eastern

Territories to the Chief of the OKW. The document was also found in my files. But it is not a letter from me to the Chief of the OKW, Keitel; on the contrary, it was obviously deposited in my office by the sender. In the left-hand top corner on Page 1, it can be seen that there is a figure "I." That means Department "I." In the case of letters originating from me such a reference would always be absent, since "I" was not a department of my own office. Furthermore, letters of mine to the Chief of the OKW were always of a personal character, either beginning with the name of the addressee, or a personal address. Chief of the OKW is the office. In the same way the ordinary address, "Reich Minister for the Occupied Eastern Territories," would not be a personal letter to me, but would mean the office.

I will not go into these details, but I will take the liberty of reading one final paragraph in connection with which I may also state that it is in keeping with the spirit which I endeavored to instill in my collaborators. And likewise, they thought that they ought to act and express themselves in this spirit. It states, literally, on Page 6:

"The main demand..."

THE PRESIDENT: What is the date?

ROSENBERG: The letter is dated 28 February 1942. That is to say, it was in the winter, in that dreadful cold period. On Page 6 it states literally:

"The main demand will have to be that the treatment of prisoners of war be carried out in accordance with the laws of humanity and as befits the dignity of Germany..."

"It is understandable that the numerous cases of inhuman treatment of German prisoners of war by members of the Red Army which have been recorded have so embittered the German troops that they wish to pay them back in their own coin.

"Such reprisal measures, however, in no way improve the situation of German prisoners of war but must ultimately result in both sides no longer taking any prisoners."

I merely wanted to quote this letter because I have no other documents at my disposal on the activity of my political department, and this is only an example of the work, which I think touches on these problems.

DR. THOMA: Mr. President, I wanted to bring to an end questions relating to the Ministry for the Occupied Eastern Territories by submitting an affidavit from Professor Dr. Dencker on the employment of agricultural machinery in the Ukraine. Document

Rosenberg-35 has already been granted me by the Tribunal. This affidavit concerns the following...

THE PRESIDENT: Have you finished your examination now?

DR. THOMA: I have finished the questions relating to the Ministry for the Occupied Eastern Territories. I have only a few more brief questions.

THE PRESIDENT: The Tribunal has seen this affidavit recently so there is no need to read it. Now, if you will, give us the exhibit number.

DR. THOMA: Rosenberg-35. This deals with machinery which had a value of 180 millions and was delivered to the Ukraine—agricultural machinery.

Witness, were you a member of the SA or the SS?

ROSENBERG: No, I belonged neither to the SA nor the SS.

DR. THOMA: So you have never worn an SS uniform?

ROSENBERG: No.

DR. THOMA: Do you know anything about concentration camps?

ROSENBERG: Yes. This question, of course, has been put to everybody and the fact that concentration camps existed became known to me in 1933. But although this may appear a repetition, I must nevertheless state that I knew by name only two concentration camps, Oranienburg and Dachau. When these institutions were explained to me I was informed, among other things, that in one concentration camp there were 800 communist functionaries whose previous sentences averaged 4 year prison terms or partly also penitentiary terms. In view of the fact that this involved a complete revolution and even though it had legal basis it was still something revolutionary, I considered it comprehensible that protective custody should be for some time decreed by this new State for these hostile persons. But at the same time I saw and heard how our toughest opponents, against whom otherwise no charges of a criminal nature were made, were treated so generously that, for example, our strongest opponent, the Prussian Minister Severing was retired with full ministerial pension, and I considered this very attitude as National Socialistic. Thus I had to assume that these arrangements were politically and nationally necessary, and I was thoroughly convinced of this.

DR. THOMA: Did you participate in the evacuation of the Jews from Germany?

ROSENBERG: I should perhaps add one thing: I visited no real concentration camp, neither Dachau nor any other one. Once—it was in 1938—I questioned Himmler on how things really were

in the concentration camps and told him that one heard from the foreign press all sorts of derogatory atrocity reports. Himmler said to me, "Why don't you come to Dachau and take a look at things for yourself? We have a swimming pool there, we have sanitary installations—irreproachable; no objections can be raised."

I did not visit this camp because if something actually improper had been going on, then Himmler, upon being questioned about it, would probably not have shown it to me. On the other hand I desisted from going for reasons of good taste; I simply did not want to look at people who had been deprived of their liberty. But I thought that such a talk with Himmler made him aware that such rumors were spreading.

A second time, later on—I cannot say, however, whether it was before or after the outbreak of the war—Himmler himself spoke to me about the matter of the so-called Jehovah's Witnesses, that is, about a matter which has also been submitted by the Prosecution as a religious persecution. Himmler told me only that it was certainly impossible to put up with conscientious objections, considering the situation the Reich was in, that it would have incalculable consequences; and he went on to say that he had often talked personally to these internees in order to understand them and eventually convince them. That, he said, has been impossible, however, because they replied to all questions with quotations—quotations from the Bible which they had learned by heart, so that nothing was to be done with them. From that statement by Himmler I gathered that since he was telling me such a story he could not possibly want to plan or carry out executions of these Jehovah's Witnesses.

An American chaplain has very kindly given me in my cell a church paper from Columbus. I gather from that that the United States, too, arrested Jehovah's Witnesses during the war and that until December 1945, 11,000 of them were still detained in camps. I presume that under such conditions, every state would answer in some way such a refusal of war service; and that was my attitude too. I could not consider Himmler wrong on this point.

**DR. THOMA:** Could you intervene in the case of Pastor Niemöller?

**ROSENBERG:** Yes. When the case of Pastor Niemöller was being tried in Germany I sent one of my staff to the trial because I was interested in it both from an official and humane point of view. This official—his name was Dr. Ziegler—made a report to me from which I concluded that this arraignment was based partly on misunderstandings on the part of the authorities, and furthermore that he was not as seriously incriminated as I had assumed. I then submitted that report to the Deputy of the Führer, Rudolf

Hess, and I asked him whether he could not give this case consideration also, and after some time, when I was with the Führer once, I brought the conversation around to this subject, and stated that I thought this whole trial and the subsequent handling most unfortunate. The Führer told me:

"I have asked only one binding statement from Niemöller—that he, as a clergyman, will not challenge the State. He has refused to give that and hence I cannot set him free. Apart from that, I ordered that he receive the most decent treatment possible, that he, being a heavy smoker, receive the best cigars, and that he have the means for carrying on all learned studies, if he wants to do this."

I do not know on what reports the Führer based this statement, but as far as I was concerned it was clear that I was not in a position to intervene any further in this matter.

DR. THOMA: We come now to the last question but one: Is it true that after the seizure of power, you made a certain examination of your attitude towards the Jews, and that the whole treatment of Jews immediately after the seizure of power underwent a certain modification? Further, that originally it had been intended to settle the Jewish question in quite another way?

ROSENBERG: I will not deny that during that time of struggle up to 1933, I too had used strong polemic arguments in my writings, and that many hard words and suggestions appeared in that connection. After seizure of power I thought—and I had good reason to think that the Führer thought so too—that now one could renounce this method, and that a certain parity and a chivalrous treatment of this question should be observed. Under "parity" I understood the following—and I stated it in a public address on 28 July 1933 and also at the Party rally in September 1933 publicly over all the broadcasting systems—that it was not possible, for example, that the communal hospitals in Berlin should have 80 percent Jewish doctors when 30 percent was their ratio. I stated further at the Party rally that we had heard of conditions that the Reich government, in connection with all these parity measures and beyond that, were making exceptions for all those members of the Jewish people who had lost a relative, father or son, during the war; and I used the expression that we would now have to make efforts to solve this problem in a chivalrous way. That it turned out otherwise is a tragic destiny, and I must state that the activities following in connection with the emigration and the support of this emigration in many countries abroad had as a result the aggravation of the situation; then things occurred which were regrettable and I must say robbed me of the inner strength to continue petitioning the Führer for the method I favored. As I



said, what was stated here recently in the veiled phraseology of the police and made known here, and what has been testified to here the other day, I considered simply impossible and I would not have believed it even if Heinrich Himmler himself had related it to me. There are things which, even to me, appear beyond the humanly possible, and this is one of them.

DR. THOMA: I have one last question. In connection with this question I should like to submit Exhibit Rosenberg-15, Document 3761-PS. This is contained in the document book but it has not yet been submitted to the Tribunal as an Exhibit. It contains a letter from Rosenberg to Hitler, written in 1924, containing the request that he should not be nominated as a candidate for the Reichstag.

Witness, you have taken part in all phases of the development of National Socialism from its beginning to its dreadful end. You have participated in its meteoric rise and its dreadful descent, and you know well that everything centered in this one person. Will you inform the Tribunal what you did yourself, and how much you were able to accomplish to avert having all the power centered in this one single person, and what you did to have the effect in every way alleviated? I am showing you first this document given to you, and then Document 047-PS, which has also already been submitted to the Tribunal under the Exhibit Number USA-725.

*[The documents were submitted to the defendant.]*

ROSENBERG: I did actually serve this National Socialist movement from its very first days on and I was completely loyal to a man whom I admired during these long years of struggle because I saw with what personal devotion and passion this former German soldier worked for his people. As far as I personally am concerned, this letter refers to an epoch...

THE PRESIDENT: Dr. Thoma, exactly what is your question to the witness? We don't want him to make a speech. We only want to know what question you are putting to him.

DR. THOMA: What suggestions did you make, and did you publicly advocate suggestions to restrict the authority of the Führer?

ROSENBERG: I must say that at that time I advocated—and this in full agreement with Adolf Hitler—and I advocated in my book, *Myth of the 20th Century*, the view that the Leadership Principle did not consist of one head but that both the Führer and his collaborators are to be bound by common duties. Further, that this Leadership Principle concept should be understood to mean the establishment of a senate or, as I described it, Ordensrat, which would have a correcting and advisory function.

That point of view was emphasized by the Führer himself when he had a senate hall with 61 seats built in the Brown House in

Munich, because he himself considered it necessary. Then I again advocated this policy in a speech in 1934, but...

THE PRESIDENT: The Tribunal does not think this is in answer to the question as to what he did to limit the Führer's power. We want to know what he did, if anything, to limit the Führer's power.

DR. THOMA: In a public meeting he pointed out that—I draw your attention to Document Book 1, Volume II, on Page 118...

THE PRESIDENT: Dr. Thoma, I didn't want you to point it out to me, I wanted the witness to point that out to the Tribunal.

DR. THOMA: In that case, will you concentrate on those two speeches which you made at that time.

ROSENBERG: I can quote the speeches, but they are not a direct answer to the question either. They signify that I stated that the National Socialist State may not be a caste which reigns over the German nation and that the Führer of a nation must not be a tyrant. However, I did not see in Adolf Hitler a tyrant, but like many millions of National Socialists I trusted him personally on the strength of the experience of a 14-year-long struggle. I did not want to limit his own full power, conscious though I was that this meant a personal exception for Adolf Hitler, not in keeping with the National Socialist concept of the State. Nor was this the Leadership Principle as we understood it or a new order for the Reich.

I served Adolf Hitler loyally, and what the Party may have done during those years, that was supported by me too. And the ill effects, due to the wrong masters, were branded by me, in the middle of the war, in speeches before political leaders, when I stated that this concentration of power as it existed at that moment, during the war, could only be a phenomenon of the war and could not be regarded as the National Socialist conception of a State. It may be opportune for many, it may be opportune for 200,000 people, but to adhere to it later on would mean the death of the individuality of 70 million.

I said that in the presence of the Higher SS leaders and other organization leaders or Gauleiter. I got in touch with the heads of the Hitler Youth, together with my staff, fully conscious that after the war a reform would have to be carried out here in the Party, so that the old demands of our Movement, for which I too had fought, would find respect. However, that has not been possible any more; fate has finished the Movement and has taken a different course.

DR. THOMA: Witness, can you state a concrete fact from which it arises that the Party, from the beginning, did not have the idea of coming to power alone but also by collaborating with other parties?

ROSENBERG: That, of course, is a historical development of 14 years, and if I can evaluate that letter here, then I would like to say that at the end of 1923, after the collapse of the so-called "Hitler Putsch," when the then representatives of the Party either were arrested or had emigrated to Austria, and when I remained in Munich with a few others, I advocated that a new development must take place and that the Party should prove itself in a parliamentary contest.

The Führer, who was then in prison at Landsberg, turned that suggestion down. My collaborators and I continued to try to influence him, however, whereupon the Führer wrote me a long, handwritten letter, which is also in the files, in which he once more developed his reasons for not wanting to comply with my suggestion. Later on, nevertheless, he agreed.

And here in this letter I asked him—he later agreed—not to nominate me as Reichstag candidate, because I felt not entitled to the privileges of a Reichstag deputy by favoring a Reichstag election, and secondly, because I felt myself too new in Germany for exposing myself in such a way after only a few years of activity.

DR. THOMA: I have no further questions.

THE PRESIDENT: Do any of the defendant's counsel want to ask any questions?

DR. SERVATIUS: Witness, in September and October 1942 you received various reports regarding unbearable conditions in connection with the recruiting of workers in the Occupied Eastern Territories. Did you investigate to find out whether the statements contained in these reports were true?

ROSENBERG: These allegations, which were received by the Ministry for the Occupied Eastern Territories, have been constantly checked by Main Department of Labor and Social Policy during all these years and I asked the Tribunal to hear as a witness here the official who always had charge of this question, Dr. Beil. This request has been granted by the Tribunal, but I now hear that Dr. Beil is ill and that he can give a report of his experiences only by a written statement. From my knowledge I can say the following:

These matters were reported to me frequently by Dr. Beil and the so-called Central Department for People of Eastern Nationalities. In a letter which has already been mentioned I transmitted them to Sauckel. Then they were always sent to the Reich Commissioner for the Ukraine or some other administrative officials for investigation and comments. A part of these proved to be correct, a part proved to be untrue and exaggerated; and as far as I know, the Plenipotentiary General for Allocation of Labor, Sauckel, even made

the complaints received from me an occasion for his own intervention, as did the German Labor Front, which was responsible for the welfare of all foreign workers in Germany. There was constant negotiation with the head of this Labor Front, and the Ministry for Occupied Eastern Territories made requests here continuously, until eventually, at the end of 1944, Dr. Ley, as the chief of this welfare department, thought that he could inform me that now after considerable difficulties, really lasting and good conditions had been achieved. I replied to him even then that I could express my pleasure about it, but that I still received reports that here and there things were going wrong. In practice the members of my ministry, together with inspectors of the German Labor Front, went to inspect a number of labor camps in order to investigate the complaints and then have them adjusted by the Labor Front.

DR. SERVATIUS: You are talking here mainly about conditions in Germany, which did not come under your jurisdiction. What did you do regarding Koch? Is the memorandum of 16 March 1943, which has already been mentioned here, a reply to these complaints? In that memorandum you write Koch that he must use legal means only and that he must call the guilty to account. Was this an answer to these reports?

ROSENBERG: Yes, it was an answer because by December 1942 there had been quite a number of complaints already.

DR. SERVATIUS: And what did Koch reply?

ROSENBERG: Koch replied to me that he, for his part, also wanted and would employ legal means, but in the document read today, in his report dated 16 March 1943, he complained several times that I did not always believe these assurances, but that in every case the Ministry for the Occupied Eastern Territories not only intervened, but even demanded of him a report on the carrying out of these instructions.

DR. SERVATIUS: Thus he denied considerable abuses?

ROSENBERG: Yes, he denied considerable abuses. He referred in the document to one particularly serious case, namely, that individual houses had been burned down in Volhynia because those who had been called upon to work had resisted the recruiting by means of force, as he explained, and he said that he had no other way of doing it. He added that this case in particular had caused new complaints on the part of the Ministry for the Occupied Eastern Territories.

DR. SERVATIUS: Was he entitled to such measures, in your opinion?

ROSENBERG: Reich Commissioner Koch had jurisdiction over the execution of all orders coming from the highest Reich authorities.

He was responsible for the execution of all measures within the bounds of the instructions. He had, I now believe, often overstepped the bounds of these instructions and acted on his own initiative in taking, as he thought, exclusively war economic measures. Sometimes I heard of these measures, and often I did not, as appears from the document.

THE PRESIDENT: The question you were asked was whether in your opinion he was entitled to burn houses because people refused to work, and you have given a long answer which seems to me to be no answer to the question.

ROSENBERG: In my opinion he did not have the right to burn down houses and therefore I intervened, and he tried to justify himself.

DR. SERVATIUS: In order to carry out the labor recruiting, there were to be recruiting measures which, it is true, had to be applied with a certain amount of administrative coercion. How far was coercion permissible, is there legal and illegal coercion, and how do you judge the measures that were carried out in practice?

ROSENBERG: I myself insisted up until 1943 on a voluntary recruitment. But in the face of the urgent demands from the Führer I could not maintain this stand any longer and I agreed therefore—in order to have a legal form at least—that certain age groups should be called up. From these age groups all those working who were needed in the Occupied Eastern Territories were to be excluded. But the others were to be brought from all sides with the help of their own administrations in the regional commissariat, that is, the little burgomasters in the Occupied Eastern Territories, and there is no doubt, of course, that to give force to these demands the police stood at the disposal of the administration in the execution of this program.

DR. SERVATIUS: If there were abuses, could Koch stop them? Did you have no influence in the matter?

ROSENBERG: It was the duty of the Reich commissioner to whom the regional government of the Ukraine was subordinated to investigate and to take action, in accordance with the instructions which he had received from me.

DR. SERVATIUS: But why did you go to Sauckel as well? Was it Sauckel's duty also to stop this?

ROSENBERG: Sauckel, as the deputy of the Delegate for the Four Year Plan, had the right to give instructions to me, as Minister for the Occupied Eastern Territories, and over and above that, he had the right to bypass me and give instructions to the Reich commissioners, a right which he used a few times in giving lectures in the general districts of the Ukraine and of the Eastern territories.

DR. SERVATIUS: Was he—was Sauckel responsible for the conditions in the Ukraine?

ROSENBERG: Sauckel was not responsible for the execution of these demands, but of course on the basis of the authority given him by the Führer he made the demands so harsh and exact that the responsible regional governments of the commissioner general felt themselves bound by conviction and appearance to back up the recruiting of labor by force as appears, for example, from the report, Document 265-PS, from the Commissioner General in Zhitomir. I think this can also be seen from the report of the District Commissioner in Kovno, of which I cannot give the exact number.

DR. SERVATIUS: Did Sauckel have an organization of his own?

ROSENBERG: Yes, he had a staff, but I cannot make a statement on the size of it. He took care only that the civil administration had labor offices attached to it, and his requirements as to the civil administration in the East for the direction of these labor offices were forwarded to the administrative offices. To my knowledge he did not have a large organization.

DR. SERVATIUS: Before Sauckel came into your ministry was there not already a department of "Labor," which had its corresponding subordinate departments on the middle and lower levels?

ROSENBERG: I cannot give you a precise answer to that. At any rate, I think a department "Labor and Social Policy" was set up almost at the beginning of the ministry, but at the moment I am not able to tell you the exact date. Perhaps Dr. Beil's statement will contain some details.

DR. SERVATIUS: Thus, you are not informed regarding the organization of this recruitment of workers?

ROSENBERG: No, I am informed as far as I have just told you, but I cannot give you exact information about the date of the foundation of this main department "Labor and Social Policy" in the Ministry for the Occupied Eastern Territories.

DR. SERVATIUS: Did labor offices for the Occupied Eastern Territories exist, which had their head in your ministry?

ROSENBERG: The work—yes, insofar as the Main Department of Labor and Social Policy did of course co-operate with the civil administration; that is, both Reich commissioners had continuous contact and had correspondence with the appropriate department, namely the labor office attached to the Reich commissioner. A correspondence with the lower agents, with the general districts, was naturally not carried on, but there was continuous consultation with the appropriate department attached to the Reich commissioner.

DR. SERVATIUS: In your letter you speak of "Sauckel offices." What offices do you mean by this?

ROSENBERG: Well, I mean, first of all, his immediate deputy Peuckert, who later, in order to guarantee smooth co-operation, formally took over the direction of this main department of "Social Policy." He was but very rarely at the Ministry for the Occupied Eastern Territories since he was officially working especially for Sauckel; and apart from that, Sauckel had a few other gentlemen with whom my main department negotiated continuously regarding the reduction of the quotas...

THE PRESIDENT: Surely, the witness Sauckel will give all this information. What is the good of wasting our time putting it to Rosenberg?

DR. SERVATIUS: It is important in order to ascertain the responsibility. Later I cannot call on Rosenberg as a witness again; a number of questions will arise, to which I...

THE PRESIDENT: I understand that, of course, but these are all details of Sauckel's administration which Sauckel must know himself.

DR. SERVATIUS: Yes, but I will have no opportunity later on to question the witness Rosenberg regarding the individual authorities within the organization, namely: Who was responsible, who had the right to supervise, who had the duty to intervene? Why were letters addressed to individuals? Why has he to answer them? One cannot understand that, if one does not ask the witness—if he is not first asked about it before. I would suggest that the witness Rosenberg should be called again in connection with Sauckel's case, after Sauckel has spoken; that would save time.

THE PRESIDENT: There is no issue with the Prosecution about it. If there is no issue with the Prosecution, then Sauckel's evidence about it will be quite sufficient.

DR. SERVATIUS: Mr. President, the witness Rosenberg, in his letter—in a letter addressed to Sauckel—mentioned the fact that his offices were using these objectionable methods. Since in my opinion such offices did not exist, and thus Rosenberg was addressing the wrong person, I must establish what offices there really were. It is a complaint about conditions that were oppressive to Rosenberg and he addressed himself to Sauckel, instead of Koch.

THE PRESIDENT: Ask him some direct question, will you?

DR. SERVATIUS: What did Sauckel do upon receiving the letter you addressed to him?

ROSENBERG: I did not receive a letter in reply to it; but I heard that Sauckel, then at a meeting of his labor offices in Weimar, went

into these complaints in detail and that he tried to do his best to remove the grounds for these complaints.

DR. SERVATIUS: Did not that meeting take place a fortnight later, that is on 6 January 1943, and were you not present also?

ROSENBERG: Possibly. I spoke at a meeting at Weimar once; whether or not it was this one, I am not able to say.

DR. SERVATIUS: Did you hear Sauckel's speech at this meeting?

ROSENBERG: No, I have no recollection of it.

DR. SERVATIUS: Did you get the speech in writing later?

ROSENBERG: I cannot remember that either.

DR. SERVATIUS: Later on I want to submit the speech as a document in connection with Sauckel's case. I have a number of further questions.

Did other departments, too, in the occupied territories, concern themselves with the recruitment of laborers?

ROSENBERG: Yes, I received indeed some reports that also, for its part, the so-called Todt Organization engaged workers for the carrying out of their technical tasks, and I think also the railway administration and other offices in the East were making efforts to get new workers for themselves.

DR. SERVATIUS: Is it not correct that the Armed Forces were demanding workers, that workers were demanded for road construction, were needed by the domestic industry, and that there was a general effort to keep manpower at home and not let them go to Germany?

ROSENBERG: That is correct, and it is a foregone conclusion that the Armed Forces, the Todt Organization, and other offices wanted to keep as many laborers as possible in the country for the growing amount of work there and they probably did not like to part with their workers. That goes without saying.

DR. SERVATIUS: Sauckel repeatedly pointed out that workers must be supplied under all circumstances and that all obstacles must be removed. Did that refer to the resistance of the local offices which did not want to give up these workers?

ROSENBERG: It certainly referred to this local manpower, and in a conference which I had with Sauckel in 1943 and which is also in evidence as a document here but which was not submitted today, reference was made to it. Sauckel stated that by order of the Führer he would have to raise a large number of new workers in the East and that in this connection, I am thinking of the Armed Forces most of all who had been, as he expressed it, hoarding workers who might instead have been active in Germany.



DR. SERVATIUS: Did Sauckel have anything to do with the recruitment of workers, which took place in connection with the germanizing of the East?

ROSENBERG: I cannot quite understand this question. What do you mean in this case by "germanizing"?

DR. SERVATIUS: The SS undertook the resettlement in the East. In connection with this manpower was shifted. Was this manpower allotted to Sauckel upon his request?

ROSENBERG: First of all I do not know exactly which resettlement you are talking about.

DR. SERVATIUS: A report has been presented to me which concerns the Jews who were sent into Polish territory. I assume that they reached your territory, too.

Do you not know about that?

ROSENBERG: Based on my own knowledge, I can say only that this concentration of the Jewish population from Eastern Germany, in certain cities and camps in the East, was carried out under the jurisdiction of the Chief of the German Police, who also had this assignment for the Occupied Eastern Territories. In connection with the resettlement in camps and with the concentrations in ghettos, there probably also developed a shortage of labor or something like that. I merely do not know what that has to do with Germanization.

DR. SERVATIUS: I have no further questions.

THE PRESIDENT: Before we adjourn, I should like to know what the position is about the Defendant Frank's documents. Does anybody know anything about that?

MR. DODD: Mr. President, I wish to say that insofar as we are concerned, we have been in consultation with Dr. Seidl for the Defendant Frank as well as the representatives of the Soviet prosecuting staff. We are prepared to be heard at any time that the Tribunal would care to hear us on the documents.

THE PRESIDENT: Yes. Then, Dr. Thoma, how many more witnesses have you got and how long do you think you will be in the Defendant Rosenberg's case?

DR. THOMA: I have only one witness, Your Honors, the witness Riecke. I believe that as far as I am concerned, he can be examined in one hour at the most; I do not think it will take as long as that. After that, it depends on the cross-examination.

THE PRESIDENT: Very well, yes; then you may finish the Defendant Rosenberg's case tomorrow?

DR. THOMA: It depends upon the cross-examination.

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THE PRESIDENT: Yes, of course. Then, Dr. Seidl, will you be able to go on at once in Frank's case? Supposing we finish Rosenberg tomorrow—tomorrow is Wednesday, is it not? Will you be able to go on on Thursday morning in Frank's case?

DR. SEIDL: Mr. President, I can start with Frank's case as soon as Rosenberg's case is finished. As far as the documents are concerned, there was difficulty regarding only one document and I have foregone the presentation of this one document. But apart from that, these documents have for the greater part already been presented by the other side.

THE PRESIDENT: If there is only one document in question, we can hear you upon it now. As I understand you, you have only one document about which there is any difference of opinion.

DR. SEIDL: That has been settled already because I have given up presentation of this document.

THE PRESIDENT: Very well. There is no further difference of opinion?

DR. SEIDL: There is no further difference of opinion.

THE PRESIDENT: Well, then you are perfectly ready to go on?

DR. SEIDL: Yes.

THE PRESIDENT: Have the documents been translated yet?

DR. SEIDL: As far as I know, they already have been all translated.

THE PRESIDENT: Very well, thank you.

*[The Tribunal adjourned until 17 April 1946 at 1000 hours.]*

# ONE HUNDRED AND TENTH DAY

Wednesday, 17 April 1946

## *Morning Session*

*[The Defendant Rosenberg resumed the stand.]*

MR. DODD: Just before recess yesterday afternoon the Tribunal inquired as to the status of the Frank Document Book, and when I informed the Tribunal that we were prepared to be heard Dr. Seidl advised that we had a pact to which we had agreed. I was not aware of that at the time. I think we were both a little bit in error. The situation is that last night about 6 o'clock we did reach an agreement so that there is no difficulty at all about the Frank books.

DR. THOMA: I would like to make a brief correction. Yesterday I spoke about the request for a document on the setting up of the Einsatzstab Rosenberg. My client has repeatedly asked me to bring in this document. However, there is a possibility that I confused this document with other documents which I requested, but which were not granted. I just wanted to make that correction.

THE PRESIDENT: Yes. You do not want to do anything more than just make that verbal correction? Very well.

DR. THOMA: Yes.

THE PRESIDENT: Is there any other defendant's counsel who wishes to ask any questions?

DR. HAENSEL: Witness, you were the Plenipotentiary of the Führer for the ideological objectives of the NSDAP and its affiliated organizations. Are you of the opinion that what you did as Plenipotentiary of the Führer in carrying out your duties and everything you said and wrote for these aims and for the systematic so-called ideological combating of Jewry may be considered as an official outline of the activity of the Party and its affiliated organizations?

ROSENBERG: If I may answer this long series of questions one by one I would like to say the following: My office, as far as ideological education was concerned, worked with the SS Main Office for Political Training. We were, of course, in constant contact with them. The so-called "guiding pamphlets" of the SS, which appeared as an instruction periodical, were read in my office. I myself had it repeatedly in my hands, and during these years I found that in this Office for Political Training, in these periodicals, a great number of very valuable articles with mostly very decent

ideas was contained. This is one of the reasons why, through all these years, I did not enter into any conflict with the SS.

As far as the Jewish question is concerned, the objective as to this problem was expressed in the program of the NSDAP. That is the only official statement which guided the Party members. Anything which I said about it, and what others wrote about it, were just reasons that were set forth. Certainly much of that was accepted, but as far as the Führer and the State were concerned these proposals were not binding rules.

DR. HAENSEL: Was the objective of your fight against Jewry limited? Did you envisage that the Jews were to be eliminated from economic and State administration, or did you from the first have a vague notion of stronger measures, such as extermination, *et cetera*? What was your objective?

ROSENBERG: In agreement with the Party program, I had the one objective in mind—to change the leadership in the German State as it existed from 1918 to 1933! That was the vital aim. As to elimination, even from economic life, we did not talk about it at that time; and yesterday I already referred to two of my speeches—which are available in print—in which I declared that after the end of this harsh political battle an investigation or examination of the problem would have to take place. There was even earlier talk about the demand for Jewish emigration from Germany, quite rightly. Later, when matters became more critical, I expressed this idea again in conformity with the proposals of very prominent Jewish leaders that German unemployed be deported to Africa, South America, and China.

DR. HAENSEL: Then, following your train of thought of yesterday and today, one could differentiate three kinds of measures against the Jews: First, until 1933—up to the seizure of power—were the propagandistic measures; second, after 1933, those measures which found their expression in the anti-Jewish laws; and then, finally, after the outbreak of the war certain measures which without doubt can be considered as Crimes against Humanity. Do you agree with this tripartite arrangement?

ROSENBERG: Yes, it is approximately right.

DR. HAENSEL: Then I would like to call your attention to Group 2, that is, to those measures which were instituted after the taking over of power, and which were laid down in laws against the Jews. Did you participate in the formulating of the laws?

THE PRESIDENT: You are counsel, are you not, for the SS?

DR. HAENSEL: Yes.

THE PRESIDENT: What have those questions got to do with the SS?

DR. HAENSEL: The questions concern the SS in the following way: If the Party as a whole had the objective of a clearly formulated anti-Jewish legislation, which was in the beginning quite orderly, then the SS was bound to this objective and for the time being had none beyond that point. I wanted to establish when the legislation and the measures against Jews turned into criminal acts, and that up to that time the SS in no manner took criminal measures against the Jews.

THE PRESIDENT: Well, he said already that the Jewish problem was contained in the Party program, and that is all that you want, is it not?

DR. HAENSEL: I wanted only to show that the fact that the Jewish problem was contained in the Party program does not prove that it was in the Party program as a Crime against Humanity. In the Party program there was simply a general sentence which I do not believe can be construed as a Crime against Humanity. In addition to that, there must be...

THE PRESIDENT: That is a matter of construction of the Party program. It is not a matter for him to give evidence about. It is in a written document—the Party program is contained in the written documents.

DR. HAENSEL: But, in addition to the Party program, a great number of decrees and laws were issued later which expanded the Party program, and the question...

THE PRESIDENT: They are also documents which this Tribunal has to construe—not for this witness to construe.

DR. HAENSEL: The question is, insofar as the defendant can tell us, how far the SS participated in the carrying out of these regulations.

THE PRESIDENT: He can tell us the facts. He cannot tell us the laws or the interpretation of documents. If you are asking him about facts, well and good; but if you are asking him to interpret the Party program or to interpret the decrees, that is a matter for the Tribunal.

DR. HAENSEL: Very well.

[Turning to the defendant.] In your books you advocated the objective that all Germans should be unified in a Greater Germany, and that point is also set down in the Party program?

ROSENBERG: Yes.

DR. HAENSEL: Did you believe that this was possible only through the preparation for a war, or did you believe that it was just as possible through peaceful means?

ROSENBERG: In the beginning of my testimony I referred to a speech of mine made before an International Congress in 1932. Here this proposal was expressly approved by the Führer to the effect that the four great powers should investigate and examine the entire European problem. This proposal said that we would give up all claims to German colonies, to Alsace-Lorraine, to the Southern Tyrol as well as claims to the separated German...

THE PRESIDENT: We have heard all this before from the Defendant Göring and the Defendant Ribbentrop, and we said that we did not want to go into it again. In any event, it has nothing to do with the SS—nothing directly to do with the SS.

DR. HAENSEL: *[To the defendant.]* Just one more question. Do you know that the SS, as far as the Jews were concerned, followed secret aims and objectives, others than those that were published officially?

ROSENBERG: That I learned here.

DR. HAENSEL: You do not know that from your own knowledge?

ROSENBERG: No.

DR. STEINBAUER: Witness, I have one single question to put to you. Under Document 091-PS the Prosecution submitted a letter which you, as the Chief of the Einsatzstab Rosenberg, sent to Dr. Seyss-Inquart in his capacity as Reich Commissioner for the Netherlands. In that letter you demanded that the library of the so-called Social Institute at Amsterdam be handed over to you. I do not know whether you recall this library. It was rather voluminous and of Socialist-Marxist content. The Prosecution did not submit the answer given by my client. Therefore, I have to ask you: Do you remember this matter and what answer did Seyss-Inquart give you?

ROSENBERG: I remember this library very well, for I was told about it. To my knowledge it represented the establishment of a spiritual center of the Second International in Amsterdam, in which the history of social movements in various countries was to be summarized in a library, so that on the basis of this scientific material now a spiritual political fight, a scientific fight...

DR. STEINBAUER: Very well. We want to be brief, and you know what I am talking about. What answer did you receive? Did Seyss-Inquart permit this library to be transferred to Germany, or did he demand that it remain in Holland?

ROSENBERG: It was at first agreed that this library would remain in Holland, and that the cataloging and classifying of this collection, which was not yet classified, was to take place in Amsterdam. In the course of the next few years this took place in

Amsterdam. Only in the year 1944, when either the invasion had already begun or was surely imminent, when bombing attacks also increased in this area, part of this library was taken to Silesia; the other part, to my knowledge, did not get through, but remained in Emden; and the third part, I believe, was not removed.

DR. STEINBAUER: Is it then correct that Seyss-Inquart prevented the taking away of this library from the Dutch working class?

ROSENBERG: Yes, that is correct.

THE PRESIDENT: Does the Prosecution wish to cross-examine?

MR. DODD: Before we begin our discussion of some matters that we would like to go over, I wonder if you would be good enough to write your name a few times on these pieces of paper, both in pen and in pencil.

*[Paper, pen, and pencil were handed to the defendant.]*

Would you write "A. Rosenberg," please, with pen, and "Alfred Rosenberg" with the pen; and would you handwrite the first initial of your last name with a capital?

Now, would you do the same thing with pencil on another piece of paper, "A. Rosenberg" in pencil, "Alfred Rosenberg," and the first initial of your last name?

And then would you do one thing more, please. Would you print the first initial of your last name?

*[The signatures were passed to Mr. Dodd.]*

Now, yesterday afternoon, while you were on direct examination through your own counsel, you stated before the Tribunal that you did have a discussion with Heinrich Himmler, the Reichsführer SS, about concentration camps, and if I remember correctly, you said that that was some time in 1938; is that so?

ROSENBERG: Yes. I testified that I discussed the concentration camps with him once, but I cannot say with certainty that it was in 1938, as I did not make a note of it.

MR. DODD: Very good. He offered to have you go through one or the other of these camps, Dachau or some other camp; is that so?

ROSENBERG: Yes, he then told me that I should take a look at the Dachau Camp.

MR. DODD: And you declined the invitation?

ROSENBERG: Right.

MR. DODD: And I understood you—if I recollect correctly, you said because you were quite sure that he would not show you the unfavorable things that were in that camp?

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ROSENBERG: Yes, I assumed more or less that in case there really were unfavorable things, I certainly would not see them anyway.

MR. DODD: You mean that you simply assumed that there were unfavorable things; that you did not know there were unfavorable things?

ROSENBERG: I heard this through the foreign press and it is about...

MR. DODD: When did you first hear that through the foreign press?

ROSENBERG: That was already in the first months of 1933.

MR. DODD: And did you continuously read the foreign press about the concentration camps in Germany from 1933 to 1938?

ROSENBERG: I did not read the foreign press at all for unfortunately I do not speak English. I received only some excerpts from it from time to time, and in the German press there were occasional references to it with the strict declaration that these allegations were not true. I can still remember the statement by Minister Göring in which he said that it was beyond his comprehension that something like that could be written.

MR. DODD: But you thought they were true to the extent that there were unfavorable things in that place that Himmler might not show you.

ROSENBERG: Yes, I assumed that in such a revolutionary process surely a number of excesses were taking place, that in some districts also on occasion there might be conflicts, and that the fact that murders of National Socialists in the months subsequent to the seizure of the power continued most probably resulted in sharp countermeasures here and there.

MR. DODD: Did you think that was still going on in 1938, these measures against the National Socialists?

ROSENBERG: No. The chief reports upon the continuance of murders of members of the Hitler Youth, of the Police, and of members of the Party were made especially in 1943 and 1944, but I do not remember that many reports still were published about this in subsequent years...

THE PRESIDENT: Did you say 1943 and 1944 or 1933 and 1934? Which is it?

ROSENBERG: 1933 and 1934, excuse me.

MR. DODD: But, in any event, in 1938 you had some knowledge in your own mind which made you think that it would not be profitable for you to inspect these camps because some things were



going on there that would not be shown to you. Now, that is so, isn't it?

ROSENBERG: No; but I said very frankly that under some circumstances excesses might be taking place, and I talked to Himmler about this matter so that he in any case knew that we were informed about such things from abroad and that he should watch his step. Only once did I receive a complaint directly myself.

MR. DODD: Now, turning to another matter, we also understood you to say yesterday that when you wrote your book, *The Myth of the 20th Century*, you expressed your personal opinion and you did not intend it to have any great effect upon state affairs. Is that a fair statement of your testimony of yesterday with respect to your book?

ROSENBERG: I did not quite follow the last sentence. I must say, I wrote *The Myth of the 20th Century* during the years 1927 and 1928 approximately, after certain historical and other preliminary studies. It was published in October 1930 with an introduction to the effect that this was a purely personal opinion, and that the political organization of which I was a member was not responsible for it.

MR. DODD: Very good. I will ask that you be shown Document 3553-PS. That is also, if Your Honor pleases, Exhibit Number USA-352. It is already in evidence.

[Turning to the defendant.] Now, you wrote a preface or a little introduction for that edition of that book. It is right there before you. You said in it:

"To the 150,000th copy: *The Myth* has today drawn deep, ineffaceable furrows into the emotional life of the German people. Every new edition is a clear indication that a decisive spiritual and mental revolution is growing into a historical event. Many things which in my book seemed to be a peculiar idea have already become a reality of State policy. Many other things will yet, I hope, materialize as a further result of this new vigor."

You wrote that?

ROSENBERG: That is certainly entirely correct. This book of 700 pages does not concern only those points of which I am accused here. This book deals with a large number of problems, the problem of the peasants, of the world states, of the concept of socialism, of the relation between leadership, industry, and labor, a presentation of the judgment...

MR. DODD: Now, just a minute. I don't think it is necessary for you to give us a list of the table of contents of the book. I simply asked you if you wrote that introduction.

ROSENBERG: Yes, of course.

MR. DODD: Now, with respect to the well-known forced labor program. I think it is perfectly clear to everyone who has been in attendance at these sessions before this Tribunal, and of course to yourself, that there was a forced labor program in effect, or a so-called slave labor program, both in the East and in the Western occupied countries. Isn't that a fact?

ROSENBERG: Yes, the law of 21 March is concerned therewith with workers from the occupied countries who were to be taken to Germany. In Germany there was also a compulsory labor law.

MR. DODD: Now, there are only two possible offices under the then German State which can, by any stretch of the imagination, be held responsible either in part or altogether for that forced slave labor program. Isn't that so? Two principal offices, at least.

ROSENBERG: Yes, indeed.

MR. DODD: And they were your own ministry and the office of the Defendant Sauckel. That is pretty simple. Is that true or not?

ROSENBERG: It is correct that Gauleiter Sauckel had been given the authority to pass orders to me and to all the supreme Reich authorities. It was my duty to make known and carry through these orders in the Occupied Eastern Territories according to my powers, my judgment, and my instructions.

MR. DODD: Did you carry out the compulsory labor directives under your ministry, force people to leave their homes and their communities to go to Germany and to work for the German State?

ROSENBERG: I fought for about three-quarters of a year for this recruitment of workers in the East to be put on a voluntary basis. From my record of a discussion with Gauleiter Sauckel still in the year 1943, it is very evident that at all times I made efforts to do this. I also mentioned how many millions of leaflets, of posters, and pamphlets I distributed in these countries so that this principle would be carried through. However, when I heard that if the number of German workers who had to go to the front could not be replaced, the German Army reserves would be at an end, then I could not protest any longer against recruitment of certain age-classes, or use of local authorities and forces of the gendarmerie to assist in this work. Yesterday I already...

MR. DODD: What you are telling us is you tried to get them voluntarily and you found they would not go, so then you forced them to go. Isn't that so?

ROSENBERG: That coercion took place here is true and is not disputed. Where an excess took place—and some terrible excesses took place—I did my utmost to prevent it or alleviate it.

MR. DODD: All right. You, of course, had promulgated an order in your own ministry concerning compulsory labor, had you not?

ROSENBERG: Yes. In the beginning, a general compulsory labor service law was promulgated.

MR. DODD: That's right, on the 19th of December 1941.

ROSENBERG: It may be that it was promulgated about that time.

MR. DODD: Well, you can accept that as being so, I think, that that is the date of your decree concerning compulsory labor, the compulsory labor, significantly—I want to make this very clear to you—in the Occupied Eastern Territories.

ROSENBERG: Yes.

MR. DODD: That order was promulgated by you as the Reich Minister for the Occupied Eastern Territories.

ROSENBERG: Yes.

MR. DODD: I ask that you be shown Document 1975-PS. It is Exhibit Number USA-820, already in evidence—not in evidence, I'm sorry. I am now offering it.

*[The document was submitted to the defendant.]*

I don't care to stress this document too much except to have you verify the fact that this is the order which you promulgated, and in the first paragraph with the small Figure 1, you stated, "All inhabitants of the Occupied Eastern Territories are subject to the general liability for work according to their capacity." And I wish to point out the paragraph under that small Number 1, with the Number 3, where you say, "A special ruling is drawn up for Jews." That is the 19th day of December 1941.

ROSENBERG: The document which has been submitted to me is signed by the Reich Commissioner for the Ukraine and is concerned with a skeleton law of the Minister for the Occupied Eastern Territories. I ask that I be shown the skeleton law of the Minister for the Occupied Eastern Territories in order that I may judge correctly the carrying-out provisions issued by the Reich Commissioner.

MR. DODD: Well, we can make that available to you. This is taken from the official gazette of the Reich Ministry for the Occupied Eastern Territories. You are not disputing, are you, the fact that you promulgated this order and that these two paragraphs I read to you were in it?

ROSENBERG: That I am not disputing.

MR. DODD: All right. If you care to look at all at the other paragraphs and at other parts, I will see that they are made available to you, but for the present purposes I can assure you there is no trick in connection with this.

I want to move on to another document.

ROSENBERG: I would like to refer to just one point. Under Paragraph 1 it says expressly that people not completely able to work are to be used according to their capability for work. This shows the state of health had been considered.

MR. DODD: Yes, I read that to you.

Now, you had a permanent state secretary by the name of Alfred Meyer, isn't that so?

ROSENBERG: I do not find anything here regarding the laws about Jews. There was a point mentioned about the directive for Jews, only it is not here.

MR. DODD: You will find it just below the sentence to which you made reference a minute ago, two paragraphs below it. There is a Figure 3 in parentheses and then this statement: "A special ruling is drawn up for Jews."

Don't you find that there?

ROSENBERG: I do not find it here—oh, on this page, yes. That refers to another law, yes.

MR. DODD: That's all right. I just asked you if it was there, and it is. Let's go on.

I asked you if you had a permanent staff secretary by the name of Meyer, Alfred Meyer, M-e-y-e-r.

ROSENBERG: Yes.

MR. DODD: I want to show you Document 580-PS, which will become Exhibit Number USA-821. Now, this is an order from your Ministry for the Occupied Eastern Territories, and it is signed by your permanent staff secretary, Alfred Meyer, and it is addressed to the Reich Commissioner for the Ostland, a man by the name of Lohse, L-o-h-s-e, and also to the Reich Commissioner for the Ukraine, a man by the name of Koch about whom we have heard a good deal in this Trial.

I want to have you agree, if you will, that the order calls for 247,000 industrial workers and 380,000 agricultural workers.

Now, I want you to turn specifically to Page 2 of the English translation and to Page 2, as well, of the German text, and Line 14 of the English text and Line 22 of the German text. The paragraph has before it the Figure 6, and it says:

"The workers are to be recruited. Forced enlistment should be avoided; instead, for political reasons, the enlistment should be kept on a voluntary basis. In case the enlistment should not bring the required results and there should be a surplus of workers still available, use may be made in case of emergency, and in agreement with the Commissioner General, of the decree dated 19 December 1941 concerning the introduction of compulsory labor in the Occupied Eastern Territories. Promises..."

So that this order, signed by Meyer of your staff, directing the Reich commissioners in the Eastern Occupied Territories, was founded on your decree of 19 December 1941 for compulsory labor.

ROSENBERG: Mr. Prosecutor, you read the introduction, and from that we can see also that my deputy clearly tried in every way to avoid forced enlistment and, as he says, the enlistment was to "be kept on a voluntary basis." That is proof of what I already said yesterday, that Meyer, my permanent deputy, most emphatically tried to work along these lines, and lastly this does not refer to arbitrary measures but rather to a general compulsory labor law in the Occupied Eastern Territories which would prevent hundreds of thousands who could neither work nor study from wandering about idly in the streets. I would however like to read also the end of the paragraph, and that says:

"Promises which cannot be kept may not be given, neither in writing nor verbally. Therefore, the announcements, posters, and appeals in the press and over the radio may therefore not contain any untrue information in order to avoid disappointment among the workers employed in the Reich, and thus reactions against future recruitment in the Occupied Eastern Territories."

I think a more legal attitude in the midst of war is not at all thinkable.

MR. DODD: Very good. All I am trying to indicate here, and to see if you will not agree with it, is that you, nevertheless, despite these remonstrances and these objections which we do not deny that you made, did authorize your people in the Eastern Occupied Territories actually to conscript and force people to come to work in Germany, and you did it on the basis of your own decree. That is the point I am trying to make with you.

ROSENBERG: A compulsory labor law was issued by me at the end of 1941 for the territory of the Reichskommissariat concerned, that is, for the Ostland and for the Ukraine. The compulsory recruitment of this manpower for the Reich was not taken until much later, and compulsory labor service in the occupied countries

was, in my opinion, legally necessary so that on the one hand no wildcat recruitment would take place, and also to prevent chaos resulting from the hundreds of thousands loitering in the streets.

THE PRESIDENT: You are not answering the question. You are giving a long paraphrase for the one word "yes," which is the answer you ought to have made.

ROSENBERG: When compulsory labor service was also instituted for the Reich, I said that I was in favor of voluntary enlistment. I could not persist in this attitude for long and therefore, of course, I agreed that then also compulsory labor laws would have to be instituted. I already admitted that three times yesterday; I have not disputed it.

MR. DODD: Yes, I know you repeated it three times yesterday and again this morning. In your own defense document—Rosenberg-11, I think it is—which is the letter that you wrote to Koch on the 14th of December 1942—I don't think it will be necessary to show it to you again; I think you saw it yesterday—you specifically mentioned to Koch the matter of picking up people from lines in front of theaters and off the streets, those people who were attending movies and matters of that sort. You knew that was going on under your decree of compulsory labor, didn't you? You were objecting to it, but you knew it was going on.

ROSENBERG: Excesses are connected with every law, and as soon as I learned of excesses, I did take steps against them.

MR. DODD: Very good. Now, finally, with respect to this forced labor matter, would you say as a matter of fairness and honesty that your ministry was not very largely responsible for this terrible program of forcing people from their homes into Germany, or do you say that you must accept a very considerable responsibility for what happened to these hundreds of thousands of people out of the Eastern occupied areas?

ROSENBERG: I, of course, will take the responsibility for these laws which I issued, and for any framework of directives which were issued by my ministry. The territorial governments were legally responsible for their execution. Where they went beyond these measures—they were 1,500 kilometers away from me—I concerned myself with every case. Many exaggerations were made and excesses also took place. I admit that terrible things did occur. I tried to intervene, to apply punitive measures and because of this quite a number of German officials were taken to court and were sentenced.

MR. DODD: Leaving aside the terrible things that happened to people, assuming that no great violence took place, the very fact

of forcing them against their wills to leave is something else that you will accept responsibility for, I assume.

ROSENBERG: Yes, indeed.

MR. DODD: And you also feel that a considerable part of this . . .

ROSENBERG: [*Interposing.*] I accept the responsibility due to a State law which empowered Gauleiter Sauckel to place these claims to me which I applied in legal form to the Eastern territories.

MR. DODD: Briefly, I want to remind you, while we are on this subject, that you acknowledged yesterday that you did consent to the taking of children as young as 10, 12, and 14 years old and removing them to Germany, and I think you told us that at first it did disturb you, but when you found out there were happy recreational circumstances, your mind was eased. Is that a fair statement of your position on forcing those children from the East?

ROSENBERG: No, that is not correct. I do not know just what the translation of the document was, but the opposite was true. I wanted to prevent anything from happening in any action in the operational zone which might, under certain circumstances, be of gravest importance for many children. Then, upon the request of the Army Group Center—which anyway would have done it on its own—I took over the care of these children on condition that I take most scrupulous care of them and care for their own mothers, that they have contact with their parents, and so that they might be returned to their homeland again later on. That is certainly the exact opposite of what the Prosecution has submitted from this document here.

MR. DODD: Well, I don't want to dwell much longer on it except to remind you that that document which you have seen and which you discussed yesterday states, among other things, that by removing these children out of the East you will be doing more than one thing; you will be destroying the biological potentiality of those people in the East. That is what you approved among other things, isn't it?

ROSENBERG: Yes. That is contained in the first point of the Prosecution and it was already read. I have made it clear by reading the whole document that my approval did not depend at all on that point, that in the first report I definitely refused that as an argument, and that only after hearing other information did I find a method, for which the women thanked me despite the fact that not I but the Hitler Jugend in Dessau and elsewhere deserve the credit for taking care of them in this way.

MR. DODD: Actually, I understand from all your testimony that, with the possible exception of the little while of which we

have been talking, you have been very benign and humane towards these people under your jurisdiction in the Occupied Eastern Territories. You wanted to be very kind to them.

ROSENBERG: I do not want at all to claim for myself any such sentimental phraseology. However, in the midst of this terrible war in the East, which brought with it the continual murder of German employees and German agricultural officials, I only tried to carry on an intelligent policy and to induce the people to heart-felt voluntary co-operation.

MR. DODD: Yes. Now I ask that you be shown Document 1058-PS, which is Exhibit USA-147.

*[The document was submitted to the defendant.]*

You now have that before you. It is an extract from a speech which you made with your closest collaborators, and it has been referred to before. It is a speech that you made on the 20th of June 1941, the day before the attack was launched against Soviet Russia. I want to refer to the very first paragraph, and the only one on the paper. It says: "The job of feeding the German people stands in these years without a doubt. . . ."

ROSENBERG: What page is that?

MR. DODD: It is the first page; there is only one page. Oh, you have the whole document. You referred to it yesterday; I think you will be able to find it. It is at Page 8, Line 54. You may recall it; you talked about it yesterday. As a matter of fact, you said it was an impromptu speech. Do you find it on Page 8?

ROSENBERG: Yes, I have found it.

MR. DODD: In that paragraph you say, among other things—and I want to call it to your attention for a specific purpose—you say that the job of feeding the German people is at the top of the list, and that the southern regions and the northern Caucasus will have to serve as a balance for the feeding of the German people. And you go on to say that you see no reason why there is any obligation to feed the Russian people with the surplus products of the territory. Then you say, "We know that this is a harsh necessity, bare of any feelings."

You then go on to say, "A very extensive evacuation will undoubtedly be necessary and the future will hold very hard years in store for the Russians."

Now, you read us some parts of that speech yesterday that you seemed to think were quite to your credit. Were all parts of the speech impromptu or are you suggesting that only the parts that seem damaging to you now were impromptu?



ROSENBERG: I just used a few key words and gave the speech that way. This paragraph has been read by the Prosecution three or four times. Yesterday when we discussed this speech I myself expressly referred to this paragraph. Beyond that, I admitted that I was told by people connected with the Four Year Plan that it was not certain whether the industry of the Moscow industrial region could be fully maintained after its conquest—here the “wagon factories” are mentioned. Restriction might be necessary to some key industries, and through that a difficult problem in the supply of this area would arise. My remarks pointed out that, of necessity, these unemployed would probably have to be evacuated. I expressly referred to this document, namely, the first document of the Minister for the Occupied Eastern Territories on this question where, under seven most important points for the civilian administration, Point 3 concerns the feeding of the civilian population. Later in the document it says that famines are to be avoided in any event and that in such a case the population was to receive special rations. I believe that in these hard times, in view of the laws and directives, it was impossible for me to do more than that. My entire political and spiritual position is to be concluded from what I said yesterday about the demand for liberty and culture in the Ukraine, about the sovereignty of the Caucasians, and also about the Russian State and its big...

MR. DODD: All right. I don't want you to go into all that. I understand you thoroughly, and I think everyone else does. I merely wanted to point out to you that on that early date you did say there would be harsh necessities and that there would be very many hard years for the Russians. That is all. And if you don't want to acknowledge that you were serious in saying that, as you were in saying the other things, then I won't press you on it. I want to turn to document...

ROSENBERG: Mr. Prosecutor, I believe that not much more could have been done for this problem than by planning beforehand how to master the difficulties rather than afterwards. Other occupation forces have had the same experience.

MR. DODD: All right.

I ask that you be shown Document 045-PS, Exhibit USA-822.  
*[The document was submitted to the defendant.]*

ROSENBERG: Perhaps I might say something more about the translation of this passage. It was translated to me that these measures were to be carried through “without any feeling.” In the original it says “beyond feeling,” or “above feeling.”

MR. DODD: All right, I accept your interpretation; we won't have any trouble about that. Now, will you please look at this

document? This is a memorandum found in your files, for your information.

ROSENBERG: Yes.

MR. DODD: You set out there, in the second paragraph, what you call the aim of German politics, notably in the Ukraine, as having been laid down by the Führer. They are, you say, exploitation and mobilization of raw materials, a German settlement in certain regions, no artificial education of the population towards intellectualism, but the preservation of their labor strength; apart from that, an extensive unconcern with the interior affairs.

Then, moving down a little bit—because I don't think it is necessary to read all of it, much of it has been referred to in another document—we come down to the 12th line from the bottom of that paragraph. Beginning at the 14th line:

"After continuous observation of the state of affairs in the Occupied Eastern Territories, I am convinced that German politics may have their own, possibly contemptuous opinion of the qualities of the conquered peoples, but that it is not the mission of German political representatives to proclaim measures and opinions which could eventually reduce the conquered peoples to dull despair instead of promoting the desired utilization of manpower to capacity."

Then, in the next paragraph, you say:

"If at home we had to announce our aims to the whole nation most openly and aggressively, in contrast to the others, the political leaders in the East must remain silent where German policy calls for necessary harshness. They must remain silent as to any derogatory opinions which they may form about the conquered peoples. Yes, a clever German policy may in certain circumstances do more in the German interest through alleviations which do not affect policy and certain humane concessions, than through open, inconsiderate brutality."

Were you honestly expressing your views when you wrote that memorandum on the 16th of March 1942?

ROSENBERG: This document is correct. It was also submitted to me in the preliminary interrogation. It shows that, although I knew that the Führer had not accepted my more far-reaching proposals, I continued to fight for these more far-reaching proposals. And it shows, further, that I saw the Führer personally, so that a few crazy middle-class people in the East would not make derogatory remarks about other nations whose standard of living may to all appearances have been poor at the time. From the many thousands who came in there, I could not expect either

sympathy or antipathy, but I could demand one thing of them if their attitude was contemptuous, and that was to keep it to themselves and to act decently.

In conclusion I would like to add something which is extraordinarily decisive, namely, it says here in the last paragraph, "I ask that the Führer rule on this record and the draft decree." This instruction is unfortunately not attached to the document; I believe that much would have been proved from it.

MR. DODD: All right. Now let's turn to Document R-36, Exhibit USA-699.

*[The document was submitted to the defendant.]*

You have seen this document before, haven't you?

ROSENBERG: Yes, I have seen it.

MR. DODD: Now, this is a memorandum submitted to you by one of your subordinates, Dr. Markull, and directly submitted to you by Leibbrandt, also one of your subordinates, one of your top men, on the 19th of August 1942. I want you to follow along with me while I read you certain passages from it.

The first few lines are dated the 5th of September 1942, and it says, "To the Reich Minister; on the premises." It states that there is enclosed a memorandum containing the opinion of Dr. Markull on the matter of the Bormann letter of the 23rd July.

Before we go into this just for a minute—if you will just pay attention to this—you told us yesterday that you were in disagreement with Bormann about some matters. Is that so?

ROSENBERG: I said...

MR. DODD: Just answer the question. Did you tell us that yesterday?

ROSENBERG: On decisive points I did not agree with Bormann. I testified that in the course of years I was assailed in such a way that, on occasion, I had to give him an appeasing answer. My whole policy was to...

MR. DODD: All right. Let's look at this document, which is, as I say, a memorandum about a Bormann letter to you, dated the 23rd of July, I assume 1942:

"On 23 July 1942, Reichsleiter Bormann sent the Minister a letter which enumerates in eight paragraphs the principles which the Minister is to follow in administering the Occupied Eastern Territories."

It goes on to say that you, in a message to the Führer dated the 11th of August 1942, explained in detail to what extent these principles are already being put into practice or used as a basis of policy.

The next paragraph says:

"Any person reading this correspondence is struck, first of all, by the complete agreement of concepts. The Minister"—that is you—"apparently was particularly concerned about two points. The first relates to the protection of German rule against the pressure of the Slav race; the second to the absolute necessity of simplifying the administration. These are indeed decisive problems, of which more will have to be said."

Then there is this statement:

"For the rest, the Minister"—referring to you—"not only raises no objections against Bormann's principles or even his phraseology; on the contrary, he uses them as a basis for his reply and endeavors to show that they are already being put into practice. When, however, Bormann's letter was read out by Captain Zimmermann in a conference of the department chiefs, grave concern was shown at once, both on account of the phraseology of the letter and the future conduct of our Eastern policy."

Then it goes on to say:

"In order to find out whether this concern is justified, it is best to start from a supposition which clearly shows the prevailing situation."

Then, under the Number I, Markull writes:

"Let us suppose Bormann's letter were issued to the Reich commissioners as a ministerial decree. This supposition is by no means unrealistic since the Minister"—and that again refers to you—"appears to hold identical views. Since the Ostland presents a special case, and moreover the Ukraine is, or will become probably the most important region politically, the following discussion will mainly be based on that region."

Then, going on:

"The consequences of a decree of this kind will best be judged by its effect on those men whose duty it is to put it into practice."

Moving down a little bit, he says:

"Imagine the formulas of Bormann's letter translated into the language of a member of the German civilian administration, and you will get, roughly, the following views:

"The Slavs are to work for us. Insofar as we do not need them, they may die. Therefore, compulsory vaccination and German health service are superfluous. The fertility of the Slavs is undesirable. They may use contraceptives or practice

abortion, the more the better. Education is dangerous. It is enough if they can count up to 100. At best an education which produces useful coolies for us is admissible. Every educated person is a future enemy. Religion we leave to them as a means of diversion. As for food, they will not get any more than is necessary. We are the masters; we come first."

Then it goes on to say:

"These sentences are by no means overstatements. On the contrary they are covered, word by word, by the spirit and the text of Bormann's letter. Already at this point the question arises whether such a result is desirable in the interests of the Reich. It can hardly be doubted that these views would become known to the Ukrainian people. Similar opinions prevail already today."

Moving on, the next paragraph, with the Number 2, says:

"But there is no real need to assume a fictitious decree as was done in Paragraph 1. The above-mentioned concept of our role in the East already exists in practice. The Reich Commissioner for the Ukraine has expounded his views of the Ukrainian people governed by him in three successive speeches at the inauguration. . . ."—*et cetera*.

And he goes on to quote those speeches, which have been referred to before this Tribunal.

Then, in the next paragraph, he says that every visitor and every member of the local civil administration can confirm this from his own observations, and they show particularly clearly how well the soil is prepared for the Bormann letter. Then he goes on to quote statements that have been made by saying, "To be exact, we are here among negroes; the population is just dirty and lazy," and so on.

And then, passing on, he says:

"I may add that Kreisleiter Knuth, whom the Gauleiter still retains in spite of the gravest accusations against his professional integrity, declared, in conversations on the Kiev question, that Kiev ought to be depopulated through epidemics. Altogether it would be best if the superfluous part of the population starved to death."

Moving on further we come to the third paragraph down. It says:

"Finally among the district commissioners 80 percent oppose the views described above. In many conferences with the general commissioners they emphasized that the population ought to be treated decently and with understanding."

And, that statements opposing such policies as referred to above will result in a catastrophe. That is what the next paragraph says.

And then Markull goes on to say:

"For the rest the only effect of the false concepts of the 'master race' is to relax the discipline of our officials."

I will not take the time to read all of it. I am sure you are reading it. Then we move on and we come to this very significant paragraph, with a Number 5:

"However, it must be examined whether there is not in fact an agreement between the policy hitherto pursued and the Bormann letter in the sense that the decrees quoted above and the other instructions of the ministry are to be understood merely as tactical moves, whereas in fact there is no divergence of opinion. The Minister's reply"—I remind you each time the Minister refers to you—"of 11 August might be considered to point in this direction."

Then he goes on to say:

"In answer to this it should be pointed out that the Minister knows very well that it is not possible to reorganize a continent of the size of Russia by means of political tactics and by wearing the mask of a liberator, but only by applying a statesmanlike conception appropriate to the political conditions."—And so on.

And finally he says:

"Another reason why..."

I want to be fair about this document with you. He indicates that perhaps it should not be interpreted merely as a tactical maneuver, because of the inconsistency which this would imply. For in that case the word "liberation" ought never to have been mentioned and no theater should be allowed to stay open, no trade school, no Ukrainian university should be allowed to function.

And finally I would like to read you—not finally—but I would like to read you this significant paragraph. It states—and I think you will allow me to summarize it—that this letter of Bormann's, which originated from the field headquarters, simply cannot be issued as a ministerial decree, since it would disavow the entire policy hitherto announced by the Minister—yourself.

And in this connection, a few sentences down, says Markull:

"It is necessary to point once more to the obvious similarity between the opinions professed by Koch and the instructions given in the Bormann letter."

Then, about halfway down the paragraph, it says only you can decide upon this question and he suggests certain considerations which might be useful, recounting some difficulties.

And finally you come, under Number II to the second paragraph:

"Without wishing to criticize in any way the statements of Reichsleiter Bormann it is yet necessary to point out that the wording of his letter does not always bring out clearly the importance of the issue at stake. A phrase like 'brisk trade in contraceptives' had better not be brought into connection with the name of the Führer. In the same way abrupt phrases like 'vaccination of the non-German population is completely out of the question,'—and so on—"would hardly seem to be entirely in keeping with the importance of the historical problems involved here."

Finally, to go on, I want to read you this, under Number III, Markull states:

"The statements set out above may appear very sharp. They are, however, dictated by concern and duty."

And finally—well, I don't think there is any necessity to read the last paragraph. It merely talks about the political philosophy which is being raised in a grandiose manner by the Japanese ally in his new districts.

Now, you remember this memorandum that you received through your assistant, Leibbrandt, from your subordinate, Markull? You can answer that "yes" or "no," by the way; that is all I want to know right now—whether or not you remember it. Will you wait just a minute?

ROSENBERG: Yes, I received this report from Dr. Leibbrandt, and I would like to make the following explanation.

MR. DODD: Just before you do that—you will have an opportunity; I won't shut you up on any explanations or even attempt to—I have one or two things I would like to ask you about it, and then if you feel the need to explain them or anything else I feel sure the Tribunal will permit you to do so.

You had written a letter in answer to the Bormann letter, hadn't you?

ROSENBERG: Yes, that is correct.

MR. DODD: And you had agreed with these—if I may use the term—shocking suggestions of Bormann? In your letter you had agreed with these shocking suggestions of Bormann? "Yes" or "no"?

ROSENBERG: I wrote an appeasing letter so that I could bring about a pause in the constant pressure under which I was kept, and I would like to anticipate and say that my activity, and the decrees which I issued after this letter, did not change in any way; but, on the contrary, decrees were issued setting up a school

system and for the further continuation of health control. I will discuss it further in my reply.

MR. DODD: You wrote this letter to the Führer; you did not write it to Bormann, did you? Your answer went to Hitler?

ROSENBERG: I wrote my reply to the Führer, yes.

MR. DODD: And you were appeasing the Führer as well, were you, when you mouthed back the phrases such as are repeated in this letter about the use of contraceptives and abortion?

ROSENBERG: No; besides...

MR. DODD: Wait until I finish. I was saying, in your letter to the Führer you wrote back those horrid suggestions of Bormann, didn't you—those nasty, horrid suggestions of Bormann, I might say? You wrote them to Hitler?

ROSENBERG: I wrote a letter to the Führer, but did not use the wording of Bormann's letter. I wrote appeasingly to the Führer that I was not doing any more than could and had to be done. I wanted to ward off an attack from headquarters for I knew it would come because I did more for the Eastern peoples than for the German people—that I was demanding more doctors than the German people had for their sick, that I was doing more in my capacity as Minister for the Occupied Eastern Territories for the health problem and thereby for the Eastern people than German doctors could do for the German people. The attack had reached such proportions that Koch finally accused me of promoting a policy of immigration. That was the reason why the conflict arose shortly thereafter and was brought to the Führer.

MR. DODD: Just so there will be no doubt about this—I don't want there to be any misunderstanding and nobody else does—are you telling us that you did not write back almost word for word what Bormann wrote to you?

ROSENBERG: I do not have the letter here *verbatim*.

MR. DODD: But you have the Markull memorandum here, which says that the Minister not only raises no objections against Bormann's principles or even his phraseology. Now surely one of your subordinates would not be impertinent enough to write you a memorandum like that unless it was perfectly true that you had done so?

ROSENBERG: I welcomed very much that my collaborators always had the courage to contradict me and give me their opinion, even concerning something I myself requested. Dr. Leibbrandt came and said to me, "Herr Reich Minister, that certainly is not in accord with what we are all doing here." I said, "Dr. Leibbrandt, please calm yourself. I have written an appeasing explanation. Nothing



will be changed. Later I will also speak to the Führer personally about these matters."

MR. DODD: Your subordinate was not afraid to tell you that you had written such a letter in which you agreed word for word with Bormann. I have no trouble with you on that score. That is all I am trying to get you to tell this Tribunal, because it is true that you did write back expressing these word-for-word sentences.

ROSENBERG: That is not correct. The author—I rather say Dr. Leibbrandt—when he gave me this memorandum, read it through in a hurry saying, "There seems to be a gentleman who believes that I cannot do anything else but what I consider right." But in this case I am facing a serious conflict, and I will maintain my position as I consider it right. That may be seen in the documents covering a period of 3 years which I read yesterday. May I give my opinion now on this document?

MR. DODD: Answer this question: Who were you appeasing, Hitler or Bormann? Or both of them?

ROSENBERG: First, I concurred with my collaborator, Dr. Leibbrandt, in the idea that ministerial decrees in that sense would never be released by me. Second, I regulated by a decree the school system in the Ukraine including a 4-year elementary school, trade school, and professional colleges.

THE PRESIDENT: Wait a minute. That is not an answer to the question. You said that you wrote an appeasing answer. The question is whom were you trying to appease. Was it Hitler or was it Bormann or was it both?

ROSENBERG: Yes, both of them; yes.

MR. DODD: Mr. President, would this be a convenient time to break off?

THE PRESIDENT: Yes.

*[A recess was taken.]*

DR. SEIDL: Mr. President, I have stated yesterday that the document books for Frank have already been translated. However, it appears—I have just found this out—that the document books are not yet bound because the office authorized to do that has not yet received permission from another competent office. Perhaps the Tribunal could order the binding of the document books, or else the whole translation is useless.

THE PRESIDENT: Very well.

MR. DODD: I did not know there was any delay, but I will see to it right away that they get it as far as we are able to do it.

ROSENBERG: May I say something about this document? This memorandum, as I stated in the beginning, is based on the supposition of a possible ministerial decree. It obviously uses phrases which Bormann had used in his letter, but my letter which I sent to the Führer cannot possibly contain these phrases. It may have contained appeasing statements to the effect that I did nothing in the Occupied Eastern Territories for which I was reproached; that is to say, that I did nothing for the German population but that I established large health departments, school departments, education departments, *et cetera*; and that now I was absolutely compelled to simplify these administrative departments. But that Bormann made these statements, that he used these phrases! It is regrettable that he expressed himself in this way; and during the last few years we were compelled to observe an unnecessarily large number of similar instances.

I may add briefly that he himself stated that the Minister apparently intervened to clarify these things there, but I want to indicate one decisive point, and that is that the opinions advanced by Bormann were also familiar to Koch's circle. During these tragic years my entire efforts were directed against Koch's personal circle, especially in the training of administrative leaders; and that can be seen from Paragraph 3, where it says, "Moreover, at least 80 percent of the district commissioners are opposed to the views described."

MR. DODD: I think we all know what is in it. If you have any explanation, I think you ought to make it.

ROSENBERG: Yes. On Page 4, it says the great majority of the administrative leadership corps set their hopes in the Minister—that is, myself—and I endeavored and tried to fulfill these hopes of the administrative leadership corps, which I attempted to educate by means of my decrees because these thousands of people could not know the vast Eastern territories, these thousands who, even in the fight against Bolshevism, sometimes had no very clear conception of the state of things in the East; and I must emphasize the fact that the author here says that the decree issued by the Minister on 17 March 1942 re-emphasizes his former decrees in a more rigorous form. The decree of 13 May 1942 attacks the view that the Ukrainians were not a race at all and attacks the false conception of superiority. Thus, these are two decrees which I have not received and which are here; and furthermore, Mr. Prosecutor, I say that he points out quite correctly that of course the Minister—that is, myself—knows very well that such a continent has to be treated differently than in accordance with these suggestions which we have heard. As a consequence of these proceedings, however, I have positively established that after that correspondence between Koch and Bormann I introduced the orderly set-up of a school

administration in the Ukraine by issuing a detailed decree. Secondly, I requested the extension of the...

MR. DODD: I am not interested in that. Just a minute.

ROSENBERG: Well, I have to answer these accusations.

MR. DODD: That is no answer to this, if Your Honor pleases, and no explanation of this document. He is launching off on one of these long speeches again about what he did after the document was received or after he wrote the letter, and I ask that he be instructed to answer that question and not to go on into statements about what he did in the administration in the Ukraine. I don't think it is pertinent.

ROSENBERG: I spoke to the Führer personally about this and told him—that decree of May 1943 is in my file—I told him that it was impossible to work in the East with this kind of talk from Koch and his following.

THE PRESIDENT: If there is a letter in your file or if there is not a letter in your file, your counsel can re-examine you upon cross-examination, but you cannot in cross-examination go into long explanations. You must answer the question "yes" or "no" and explain, if you must explain, shortly. You have been explaining this document for a long time.

MR. DODD: When did you first meet Erich Koch?

ROSENBERG: Erich Koch?

MR. DODD: Yes.

ROSENBERG: In the twenties. It may have been 1927 or 1928...

MR. DODD: Apparently you have known him, then, a great many years?

ROSENBERG: I have not seen him often, but as Gauleiter I talked to him personally now and again.

MR. DODD: When did he become a Gauleiter?

ROSENBERG: I believe in the year 1928 he became Gauleiter in East Prussia, but I cannot give the exact date when he became Gauleiter.

MR. DODD: That is all right. I want an approximate date. Did you have much to do with him from the time that he was appointed Gauleiter, let us say, until 1940?

ROSENBERG: During the fighting years, I had practically nothing at all to do with him. Then later, after 1933, I talked to him several times.

MR. DODD: You had a pretty good knowledge, I assume, in any event, of his general reputation among his friends and acquaintances?

ROSENBERG: I knew Koch had a very excitable temperament, going from one extreme to the other and hard to keep steady, and therefore not reliable in carrying out a steady policy.

MR. DODD: I take it from your answer, that you were not aware, however, before he became the Reich Commissioner for the Ukraine, of his temperament in this way, that you did not know that he did these terrible things, which he did do while Reich Commissioner in the Ukraine, did you?

ROSENBERG: No, and...

MR. DODD: That is an answer and there is no need to explain that.

ROSENBERG: I even knew that Koch had expressed the opposite opinion previously, and that he had said that the youth of the East embraces also the German youth. He previously wrote that.

MR. DODD: So I take it you were surprised when this man turned out to be the kind of man that he did turn out to be. Is that a fair statement?

ROSENBERG: That only came to light gradually later on. Another person could not foresee that this temperament would involve such results and it would not have gone so far had he not been supported by somebody else.

MR. DODD: You don't think he was quite so good a man as appears from the record, but was rather encouraged by some others; is that what you are trying to tell us?

ROSENBERG: Yes, that, of course, contributed.

MR. DODD: I am going to ask that you be shown Document 1019-PS; it becomes Exhibit USA-823. By the way, before we look at that document, Koch is the man whom you blame to a very great extent for many of these terrible things that happened under your ministry in the Ukraine, isn't he? There isn't any doubt about that. You told us about that all day yesterday.

ROSENBERG: Yes.

THE PRESIDENT: Mr. Dodd, could you go just a little bit slower?

MR. DODD: Yes, Your Honor, I will.

[Turning to the defendant.] If you look at this document, you will see that it is a memorandum about your recommendations as to the personnel for the Reich commissions in the East and for the central political office in Berlin; and it was written on the 7th day of April 1941, and I take it that that was only a few days after Hitler talked to you about your new assignment in the East, 4 or 5 days at the most; isn't that so? Will you answer that question?

ROSENBERG: Yes.

MR. DODD: Now, in this memorandum you set out that you recommended Gauleiter Lohse and we know from the documents and the testimony that he was appointed; isn't that a fact?

ROSENBERG: Yes.

MR. DODD: All right. Now, turn to the next page of the English text; it is the paragraph beginning as follows:

"In addition it will eventually become necessary to occupy with troops not only Leningrad, but also Moscow. This occupation will probably differ considerably from that in the Baltic provinces, the Ukraine, and the Caucasus. It will be aimed at the suppression of any Russian and Bolshevik resistance and will necessitate an absolutely ruthless person both as regards the military representation and also the eventual political direction. The problems arising from this need not be detailed here. If it is not intended to maintain a permanent military administration, the undersigned would recommend the Gauleiter of East Prussia, Erich Koch, as Reich Commissioner in Moscow."

Did you recommend Koch for that job as a particularly ruthless man in April of 1941? "Yes" or "no"?

ROSENBERG: Yes...

MR. DODD: Just a minute. You have done a lot of talking here for the last day and today if you will just give me a chance once in a while.

He is the same man you told us a minute ago you did not know to be particularly ruthless until after he did these terrible things in the Ukraine. Now, it is very clear you did know it in April of 1941, isn't it? What is your answer to that?

ROSENBERG: That is not correct; that is not laid down here. I have stated that I know from Koch's writings from 1933 and 1934 that he had a special liking for the Russian people. I knew Koch as a man of initiative in East Prussia. I had to expect that at the center of Moscow and around Moscow a very difficult job would have to be done. For here was the center of gravity of Bolshevism and here under certain circumstances the greatest resistance would arise. Then I did not want to have Koch in the Eastern territories and not in the Ukraine because I did not believe I had to fear such resistance there. There was, on one side, Koch's devotion to the Russians, on the other side he was a man with economic initiative; finally I knew he was supported in such a manner that he was intended for some job in the East by the Führer as well as by the Reich Marshal.

MR. DODD: When you were looking for a ruthless man you suggested Koch as early as April of 1941.

ROSENBERG: This expression refers here rather to initiative and, of course, to the view that he would fight any Bolshevik resistance ruthlessly; but not in the sense that he would suppress a foreign race or try to exterminate foreign cultures.

MR. DODD: The truth of the matter is that you had some peculiar and odd interest in the Ukraine and you had somebody else in mind for that job but you knew Koch was a bad actor and you wanted him in another part of Russia, is it not?

ROSENBERG: No, for the Ukraine I wanted State Secretary Backe or my Chief of Staff Schickedanz, as can be seen from this document. I wanted State Secretary Backe because he is a German from the Caucasus and speaks Russian, knows the entire southern territory and probably could have worked very well there. I did not get him and I was forced to accept Koch, I would like to say, against my personal protest in the meeting of 16 July 1941.

MR. DODD: Well, if that is your answer I do not care to go any further with it.

With respect to your attitude towards the Jewish people, in your Frankfurt speech in 1938 you suggested that they all had to leave Europe and Germany, did you not?

ROSENBERG: This phrasing was used.

MR. DODD: All you need to say is "yes" or "no." Did you do that or not in your speech in Frankfurt in 1938?

ROSENBERG: Yes, but I certainly cannot answer "yes" or "no" on an incorrect quotation!

MR. DODD: I do not think you need to explain anything at all. I merely asked you whether you said that in Frankfurt in your Party Day speech.

ROSENBERG: Yes, in substance that is correct.

MR. DODD: Now, in your Party Day speech to which you made reference yesterday, you said you used harsh language about the Jews. In those days you were objecting to the fact that they were in certain professions, I suppose, and things of that character. Is that a fair statement?

ROSENBERG: I said yesterday that in two speeches I demanded a chivalrous solution and equal treatment, and I said the foreign nations might not accuse us of discriminating against the Jewish people, so long as these foreign nations discriminate against our nation...

MR. DODD: Yes, very well. Did you ever talk about the extermination of the Jews?

ROSENBERG: I have not in general spoken about the extermination of the Jews in the sense of this term. One has to consider the words here. The term "extermination" has been used by the British Prime Minister...

MR. DODD: You will get around to the words. You just tell me now whether you ever said it or not? You said that, did you not?

ROSENBERG: Not in a single speech in that sense...

MR. DODD: I understand the sense. Did you ever talk about it with anybody as a matter of State policy or Party policy, about the extermination of the Jews?

ROSENBERG: In a conference with the Führer there was once an open discussion on this question about an intended speech which was not delivered. The sense of it was that now a war was going on and that this threat which had been made should not be mentioned again. That whole speech was also not delivered.

MR. DODD: When was it you were going to deliver that speech? Approximately what was the date?

ROSENBERG: In December 1941.

MR. DODD: Then you have written into your speech remarks about the extermination of Jews, haven't you? Answer that "yes" or "no."

ROSENBERG: I have said already that that word does not have the sense which you attribute to it.

MR. DODD: I will get around to the word and the meaning of it. I am asking you, did you not use the word or the term "extermination of the Jews" in the speech which you were prepared to make in the Sportpalast in December of 1941? Now, you can answer that pretty simply.

ROSENBERG: That may be, but I do not remember. I myself did not read the phrasing of the draft any further. In which form it was expressed I can no longer say.

MR. DODD: Well then, perhaps we can help you on that. I will ask you be shown Document 1517-PS. It becomes Exhibit USA-824. *[Document 1517-PS was submitted to the defendant.]*

Now, this is also a memorandum of yours written by you about a discussion you had with Hitler on the 14th of December 1941, and it is quite clear from the first paragraph that you and Hitler were discussing a speech which you were to deliver in the Sportpalast in Berlin, and if you will look at the second paragraph, you will find these words:

"I remarked on the Jewish question that the comments about the New York Jews must perhaps be changed somewhat after

the conclusion (of matters in the East). I took the standpoint not to speak of the extermination (Ausrottung) of Jewry. The Führer affirmed this view and said that they had laid the burden of war on us and that they had brought the destruction; it is no wonder if the results would strike them first."

Now, you have indicated that you have some difficulty with the meaning of that word, and I am going to ask you about the word "Ausrottung." I am going to ask that you be shown—you are familiar with the standard German-English dictionary, *Cassell's*, I suppose, are you? Do you know this word, ever heard of it?

ROSENBERG: No.

MR. DODD: This is something you will be interested in. Will you look up and read out to the Tribunal what the definition of "Ausrottung" is?

ROSENBERG: I do not need a foreign dictionary in order to explain the various meanings "Ausrottung" may have in the German language. One can exterminate an idea, an economic system, a social order, and as a final consequence, also a group of human beings, certainly. Those are the many possibilities which are contained in that word. For that I do not need an English-German dictionary. Translations from German into English are so often wrong—and just as in that last document you have submitted to me, I heard again the translation of "Herrenrasse." In the document itself "Herrenrasse" is not even mentioned; however, there is the term "ein falsches Herrenmenschentum" (a false master mankind). Apparently everything is translated here in another sense.

MR. DODD: All right, I am not interested in that. Let us stay on this term of "Ausrottung." I take it then that you agree it does mean to "wipe out" or to "kill off," as it is understood, and that you did use the term in speaking to Hitler.

ROSENBERG: Here I heard again a different translation, which again used new German words, so I cannot determine what you wanted to express in English.

MR. DODD: Are you very serious in pressing this apparent inability of yours to agree with me about this word or are you trying to kill time? Don't you know that there are plenty of people in this courtroom who speak German and who agree that that word does mean to "wipe out," to "extirpate?"

ROSENBERG: It means "to overcome" on one side and then it is to be used not with respect to individuals but rather to juridical entities, to certain historical traditions. On the other side this word has been used with respect to the German people and we have also not believed that in consequence thereof 60 millions of Germans would be shot.



MR. DODD: I want to remind you that this speech of yours in which you use the term "Ausrottung" was made about 6 months after Himmler told Hoess, whom you heard on this witness stand, to start exterminating the Jews. That is a fact, is it not?

ROSENBERG: No, that is not correct, for Adolf Hitler said in his declaration before the Reichstag: Should a new world war be started by these attacks of the emigrants and their backers, then as a consequence there would be an extermination and an extirpation. That has been understood as a result and as a political threat. Apparently, a similar political threat was also used by me before the war against America broke out. And, when the war had already broken out, I have apparently said that, since it has come to this, there is no use to speak of it at all.

MR. DODD: Well, actually, the Jews were being exterminated in the Eastern Occupied Territories at that time and thereafter, weren't they?

ROSENBERG: Then, may I perhaps say something about the use of the words here? We are speaking here of extermination of Jewry; there is also still a difference between "Jewry" and "the Jews."

MR. DODD: I asked you if it was not a fact that at that time and later on Jews were being exterminated in the Occupied Eastern Territories which were under your ministry? Will you answer that "yes" or "no"?

ROSENBERG: Yes. I quoted a document on that yesterday.

MR. DODD: Yes, and after that you told the Tribunal or, as I understood you at least, you wanted the Tribunal to believe that that was being done by the Police and without any of your people being involved in it; is that so?

ROSENBERG: I have heard from a witness that a district commissioner is said to have participated in these things in Vilna, and I have heard from another witness that in other cities the report came through that the Police would carry it out. From Document 1184 I gathered that a district commissioner opposed in every possible way and protested against this so-called "Schweinererei" (scandalous doings).

MR. DODD: Dr. Leibbrandt was your subordinate; he was in charge of Division II in your Ministry for the Occupied Eastern Territories, wasn't he?

ROSENBERG: Yes, for a time.

MR. DODD: Now, for the second time, I'll ask that you be shown Document 3663-PS, Exhibit USA-825.

*[Document 3663-PS was submitted to the defendant.]*

Now, this document consists of three parts as you will notice. The first page is a letter written by Dr. Leibbrandt on the stationery of the Reich Minister for the Occupied Eastern Territories and it is dated 31 October 1941; that's not too many days before you had your conversation with the Führer about your speech, and it is addressed to the Reich Commissioner for the Ostland in Riga. That was Lohse, the man whom you recommended. The letter says:

"The Reich Security Main Office has complained that the Reich Commissioner for the Ostland has forbidden execution of Jews in Libau. I request a report in regard to this matter by return mail. By order"—signed—"Dr. Leibbrandt."

Now, if you will turn to the next page, you will see the answer. Turn that document over if you have the original—do you? You will see the answer, dated Riga, the 15th of November 1941, to the Reich Minister for the Occupied Eastern Territories, Berlin. "Subject: Execution of Jews, re: Decree." It refers to the letter of Leibbrandt, apparently, of the 31st of October 1941, and it says:

"I have forbidden the wild execution of Jews in Libau because they were not justifiable in the manner in which they were carried out. I should like to be informed whether your inquiry of 31 October is to be regarded as a directive to liquidate all Jews in the Ostland. Shall this take place without regard to age and sex and economic interests of the Wehrmacht, for instance in specialists in the armament industry?"

And there is a note in different handwriting:

"Of course, the cleansing of the Ostland of Jews is a main task. Its solution, however, must be harmonized with the necessities of war production."

It continues:

"So far, I have not been able to find such a directive, either in the regulations regarding the Jewish question in the 'Brown Portfolio' or in other decrees."

Now, that has the initial "L" for "Lohse," doesn't it, at the bottom of it? And then, if you'll look at the third page—no, it is another document. There are only two parts to that document.

Now, I wish that you would look at Document 3666-PS, which becomes Exhibit USA-826.

THE PRESIDENT: That has on it the initial "L," has it?

MR. DODD: The original has, Your Honor; yes.

THE PRESIDENT: And the defendant agrees that that is the initial of Lohse; is that right?

ROSENBERG: That could hardly be Lohse. I do not know Lohse's initial. I do not know.

MR. DODD: Well, it's very . . .

ROSENBERG: It could also be Leibbrandt; I do not know.

MR. DODD: You're not willing to say that that second letter was from Lohse and that that is his initial on the bottom of it?

ROSENBERG: That I cannot say.

MR. DODD: All right.

ROSENBERG: That I cannot say because usually typewritten letters are sent anywhere.

MR. DODD: Well, we're . . .

ROSENBERG: This note in the back is not quite clear to me. Essentially, however, it means that this was a protest against police measures which had become known and that an instruction . . .

MR. DODD: We will go into what it means in a minute. We're just talking about the initial "L." While we're talking about the initial, will you look at it and see if there are any "R's," capital "R"?

ROSENBERG: Yes, here is an "L."

MR. DODD: Yes, "R"?

ROSENBERG: Yes, here are two "R's."

MR. DODD: Did you put those on there?

ROSENBERG: No.

MR. DODD: You initialled them, did you?

ROSENBERG: I cannot decipher that as my "R."

MR. DODD: You say that it is not your "R"? We will have to be clear about this. You'd have to know your own initial when you saw it anywhere.

ROSENBERG: I never made such a pointed "R" on the top. You can compare it with my handwriting.

MR. DODD: We'll do that; don't worry. I just want to ask you now if that is your initial or not?

ROSENBERG: I cannot identify that as my initial.

MR. DODD: Do you say that it is not your initial?

ROSENBERG: Yes.

MR. DODD: All right. Now, I wish you'd look at Document 3666-PS, which is also related to these other documents, and that is also a letter written on the stationery of the Reich Minister for the Occupied Eastern Territories, and it is dated December 18, 1941. Subject: Jewish Question. Re: Correspondence of 15 November 1941. This is an answer then to the letter marked "L," inquiring whether or not execution of the Jews is to be understood as a fixed policy.

"Clarification of the Jewish question has most likely been achieved by now through verbal discussions. Economic considerations should on principle remain unconsidered in the settlement of the problem. Moreover, it is requested that questions arising be settled directly with the Higher SS and Police Leader. By order (signed) Bräutigam."

Have you seen that letter before?

ROSENBERG: No, I have not seen it; in my opinion no. Here I see again such an "R," pointed on the top, and I cannot identify that as my "R" either.

MR. DODD: So that you do not identify that as having your initial, either?

ROSENBERG: Well, I could simply not identify that as my "R" because this was a letter, signed by Bräutigam sent from the Ministry of the Eastern Occupied Territories to the Ostland, and the notes on the top are from an office that has received that letter.

DR. THOMA: Mr. President, may I draw your attention to an explicit error here? This "R" is in connection with a "K." That apparently means "Reichskommissar."

MR. DODD: I am not discussing the "R" on the top of the letter; I am discussing the one of the handwritten letter.

ROSENBERG: Well, it can be seen from this "R" now quite unequivocally that this concerns the man who received the letter. "Received on 22 December—R." And it is addressed from the Ministry to the "Ostland." That note, therefore, was written by a person living in Riga, and that is the same "R" which can be found also on the other document.

MR. DODD: Who is your Reich Commissioner in the East for Riga?

ROSENBERG: Lohse.

MR. DODD: His name didn't begin with "R," did it?

ROSENBERG: Yes, but it is clear that this letter obviously was initialled in his department.

DR. THOMA: May I also help the Tribunal in this matter? In the handwritten thing with the German "L" you will find on the left margin "WV 1/12/41," which means to be presented again (Wiedervorlage). And then you find "presented (vorgelegt) 1/12/41 R." That appears to have taken place in the office of the Reich Commissioner and it is a first draft and therefore it was marked only with the first letter of his name.

MR. DODD: We do not accept that as being any statement with which we can prove this at this Trial. I think the matter as to whose initial it is will be presented later for determination.

THE PRESIDENT: What do the words at the top mean, "The Reich Minister for the Occupied Eastern Territories"?

MR. DODD: That is the stationery upon which it is written. It is handwritten on this particular paper because this whole letter was handwritten on the back of the first letter. These were both found in this defendant's office in Berlin.

[Turning to the defendant.] Well, now, I'd like to call your attention to another document, Number 36.

ROSENBERG: I maintain emphatically that that initial "R" was put down by the person who received the letter, to whom the letter was addressed.

MR. DODD: Well, we'll get around that. Document Number 36—I ask that you be shown Document Number 3428, which becomes Exhibit USA-827.

THE PRESIDENT: Give me the number again, will you?

MR. DODD: I am sorry. 3428-PS becomes 827, USA-827.

[Turning to the defendant.] Now, this is a letter written from Minsk in the occupied area on July 31, 1942, and it is written by Kube, K-u-b-e. He was another one of your subordinates, wasn't he? Will you answer that please?

ROSENBERG: Yes.

MR. DODD: And it is written to Lohse, the Reich Commissioner for the Eastern territory, isn't it?

ROSENBERG: Yes, that's right.

MR. DODD: Now, then, let's look at it: "Combating of Partisans and Action against Jews in the District General of White Ruthenia." It says:

"In all the clashes with partisans in White Ruthenia it has been proved that Jewry, in the former Polish part"—and so on—"is the main exponent of the partisan movement. In consequence, the treatment of Jewry in White Ruthenia is mainly a matter of political concern. . . ."

Then, moving down a sentence or two:

"In exhaustive discussions with the SS Brigadeführer Zenner and the exceedingly capable leader of the SD, SS Obersturmbannführer Dr. jur. Strauch, it was ascertained that we have liquidated in the last 10 weeks about 55,000 Jews in White Ruthenia. In the area of Minsk, Jewry has been completely eliminated, without endangering the manpower commitment. In the predominantly Polish district of Lida, 16,000 Jews; in Slonim, 8,000 Jews"—and so forth—"have been liquidated. Owing to an encroachment by the Army supply and

communications zone already reported to you, the preparations made by us for liquidation of the Jews in the Glebokie area, have been disturbed. The Army supply and communications zone, without contacting me, has liquidated 10,000 Jews, whose systematical elimination had been provided for by us in any event. In the city of Minsk approximately 10,000 Jews were liquidated on 28 and 29 July, 6,500 of them Russian Jews, predominantly aged persons, women and children; the remainder consisting of Jews unfit for commitment to labor, the greater majority of whom were deported to Minsk in November of last year from Vienna, Brunn, Bremen, and Berlin, by order of the Führer.

"The area of Sluzk, too, had been relieved of several thousand Jews. The same applies to Novogrodek and Vileika. Radical measures are imminent for Baranowicze and Hanzewitschi. In Baranowicze alone, approximately 10,000 Jews are still living in the city itself; of these, 9,000 Jews will be liquidated next month."

And it goes on to say:

"In the city of Minsk 2,600 Jews from Germany are left over. In addition, all 6,000 Russian Jews and Jewesses who during the action stayed with the units to which they were assigned for work are still alive. Even in the future Minsk will still retain its character as the strongest center of the Jewish labor commitment, necessitated for the present by the concentration of the armament industries and by the rail problems. In all other areas, the number of Jews to be drafted for labor commitment will be limited by the SD and by me to 800 at the most, but if possible to 500..."

And so on. It tells of other situations with respect to Jews, all of which I do not think it is necessary to read. But I do want to call your attention to the last paragraph, the last sentence:

"I fully agree with the Commander of the SD in White Ruthenia, that we shall liquidate every shipment of Jews which is not ordered or announced by our superior offices, to prevent further disturbances in White Ruthenia."

And up above I did omit one sentence or two that I wanted to read:

"Naturally, after the termination of the economic demands of the Wehrmacht, the SD and I would like it best definitely to eliminate Jewry in the District General of White Ruthenia. For the time being, the necessary demands of the Wehrmacht, which are the main employers of Jews, are considered."

I ought to tell you as well that this document was also found in your office in Berlin. Now, that is a letter...

ROSENBERG: That seems very improbable to me, that it has been found in my office in Berlin. If so, it can be at most only that the Reich Commissioner for the Ostland had sent all his files to Berlin, packed in boxes. It was not in my office at that time, and this letter was also never presented to me. There is stamped here, "The Reich Commissioner for the Ostland," not the Reich Minister for the Occupied Eastern Territories. I stated yesterday, however, that a number of such happenings were reported to me as individual actions in the fighting, and that I received this one report from Sluzk personally, and Gauleiter Meyer was immediately charged to protest to Heydrich and to order an investigation. That presupposes that he, the Gauleiter Meyer, did not know of and did not think of such a general action on order of a central command.

MR. DODD: Well, I only want to suggest to you that it is a strange coincidence that two of your top men were in communication in this tone in 1942 without your knowledge.

Did you also tell the Tribunal yesterday that you understood that most of the difficulty or a large part of the difficulty in the East for the Jewish people came from the local population? Do you remember saying that yesterday?

ROSENBERG: I did not receive this translation.

MR. DODD: I asked you if it was not a fact that yesterday you told the Tribunal that much of the difficulty for the Jews in the East came from the local population of those areas.

ROSENBERG: Yes. I was informed about that in the beginning by returning personalities, that it was not due to local authorities but to parts of the population. I knew the attitude in the East from before and could well imagine that this was true.

Secondly, I have stated that I had been informed that along with executions of various other nests of resistance and centers of sabotage in various cities, a large number of Jews were shot by the police. And then I have treated the case of Sluzk here.

MR. DODD: I think you will agree that in the Ukraine your man Koch was doing all kinds of terrible things, and now I don't understand that you dispute that Lohse and Kube were helping to eliminate or liquidate the Jews, and that Bräutigam, an important member of your staff, and that Leibbrandt, another important member of your staff, were informed of the program. So that five people at least under your administration were engaged in this kind of conduct, and not small people at that.

ROSENBERG: I should like to point out that a decree by the Reich Commissioner for the Ostland is at hand, which in agreement...

THE PRESIDENT: Will you answer the question first? Do you agree that these five people were engaged in exterminating Jews?

ROSENBERG: Yes. They knew about a certain number of liquidations of Jews. That I admit, and they have told me so, or if they did not, I have heard it from other sources. I only want to state one thing: That according to the general law of the Reich, the Reich Commissioner for the Ostland issued a decree according to which Jewry, which of course was hostile to us, should be concentrated in certain Jewish quarters of the cities. And until the end, until 1943-1944, I have heard that in these cities such work was still carried out in these Jewish ghettos to a very large extent.

And may I supplement this with still another case which came to my knowledge, namely that a district commissioner...

MR. DODD: I don't want you to point out anything else. You have answered the question, and you have explained your answer. I don't ask you further:..

ROSENBERG: What I wanted to add explains another part of my answer in a very concrete case, namely, a district commissioner in the Ukraine had been accused before the court of having committed blackmail in a Jewish community and having sent furs, clothes, *et cetera* to Germany. He was brought before court, he was sentenced to death, and was shot.

MR. DODD: Well, that is very interesting, but I don't think it is a necessary explanation of that answer at all. And I would ask that you try to confine these answers. I would like to get through here in a few minutes.

You are also, of course, the man who wrote the letter, as you told the Tribunal yesterday, suggesting the out-of-hand execution of 100 Jews in France, although you said you thought that was what? a little bad judgment, or not quite just, or something of the kind? Is that right?

ROSENBERG: I made my statement about that yesterday.

MR. DODD: I know you have, and I would like to talk about it for a minute today. Is that what you said about it, that it was not right, and that it was not just? "Yes" or "no," didn't you say that to the Tribunal yesterday?

ROSENBERG: You have to quote literally, word for word, if you want me to answer "yes" or "no."

MR. DODD: I will ask you again. Didn't you say yesterday before this Tribunal that your suggestion in that letter, in Document 001-PS,



was wrong and was not just? Now, that is pretty simple and you can answer it.

ROSENBERG: I stated that it was humanly unjust.

MR. DODD: It was murder, isn't that what it was, a plan for murder? "Yes" or "no"?

ROSENBERG: No. But I considered the shooting of hostages, which was publicly made known by the Armed Forces, as an obviously generally accepted fact under the exceptional conditions of war. These shootings of hostages were published in the press. Therefore, I had to assume that according to international law and certain traditions of warfare this was an accepted act of reprisal. Therefore, I cannot admit...

MR. DODD: Well, were you talking then as the benign philosopher or as a soldier? When you wrote this letter, 001-PS, in what capacity were you writing it, as a benign, philosophical minister on ideology and culture, or were you a member of the Armed Forces?

ROSENBERG: As can be seen from the document, I have spoken about the fact that certain sabotage and murder of German soldiers was being committed here, so that good future relations, which I also aimed for, between Germany and France would be poisoned forever. For that reason this letter was written, although I regret it from the human point of view.

MR. DODD: It comes a little late, don't you think?

The witness Hoess—you were in the courtroom when he testified, Hoess, H-o-e-s-s?

ROSENBERG: Yes, I heard him.

MR. DODD: You heard that terrible story of 2½ to 3 million murders which he told from the witness stand, very largely of Jewish people?

ROSENBERG: Yes.

MR. DODD: Although it was not brought out here, you can take it from me as being so. If you care to dispute it, you may, and we will establish it later. You know that he was a reader of your book and of your speeches, this man Hoess?

ROSENBERG: I do not know whether he read my books. Anti-Jewish books have existed for the last 2,000 years.

MR. DODD: Now, you offered to resign in October 1944 from your position as Reich Minister for the Occupied Eastern Territories?

ROSENBERG: October 1944.

MR. DODD: You did not have very much to resign from on that date, did you? The Germans were practically out of Russia, isn't that

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a fact? On October 12, 1944, the German Army was practically out of Russia. It was on the retreat, isn't that so?

ROSENBERG: Yes. It was the question of my further tasks for the political and psychological treatment of several millions of Eastern workers in Germany; it was furthermore a question of refugees who came from the Eastern territories and from the Ukraine to Germany, and of the settlement of economic problems, and above all I still had the hope even at that hour that a military change also might still occur in the East.

MR. DODD: And everybody, pretty nearly everybody who was informed at all in Germany knew that the war was lost in October of 1944, isn't that so? You knew that the war was lost in October of 1944.

ROSENBERG: No, I did not know that.

MR. DODD: You did not know that?

ROSENBERG: No, I did not know that.

MR. DODD: I will accept that answer. That is all. I have no further questions.

THE PRESIDENT: Dr. Thoma, do you wish to re-examine?

*[There was no response.]*

General Rudenko, have you got some additional questions you want to ask?

GEN. RUDENKO: I have some questions to ask in connection with the defendant's activities in the Eastern territories.

THE PRESIDENT: Very well, General.

GEN. RUDENKO: Defendant Rosenberg, at what time did you begin, personally and directly, to participate in preparations for an attack on the Soviet Union?

ROSENBERG: Not at all.

GEN. RUDENKO: Was your appointment of 20 April 1941 to the post of the Führer's Commissioner in central control for all questions relating to the Eastern European territories not directly connected with Germany's attack on the Soviet Union?

ROSENBERG: That was no longer a planning in which I took part, but it was the consequence of a decision which had already been made and about which my advice had not been asked. I was notified that a decision had been made and military orders had been given. Therefore I have nothing... Well, if I have to answer the question as much as possible with "yes" or "no," I have just answered this, on the basis of the wording, with "no."

GEN. RUDENKO: You do not deny the fact that this appointment took place in April 1941?

ROSENBERG: That is evident, that I received a task.

GEN. RUDENKO: With this nomination Hitler gave you very wide powers. You collaborated with the highest authorities of the Reich, received information from them and summoned the Reich authorities to meetings. In particular you collaborated with Göring, with the Minister for Economy, and with Keitel. Do you confirm this? Please reply briefly.

ROSENBERG: There are, again, three questions. As to the first question, whether I received wide powers, plenipotentiary powers, I had not received plenipotentiary powers at all. The answer would be "no."

To the second question, whether I had conferences, the answer is "yes." As a matter of course, I conferred with the supreme Reich authorities who were concerned with the East, as was my duty in connection with my task.

GEN. RUDENKO: Please reply briefly to the following question: Immediately after your appointment of 20 April 1941, did you hold a conference with the Chief of the OKW?

ROSENBERG: Yes, I visited Field Marshal Keitel.

GEN. RUDENKO: Did you have a conversation with Brauchitsch and Raeder in connection with your appointment, regarding the solution of the Eastern problems?

ROSENBERG: According to my recollection I did not speak to Brauchitsch and I also have no recollection of having had any conversation at that time with Raeder.

GEN. RUDENKO: Did you have a conference with the Defendant Funk, who appointed Dr. Schlotterer as his permanent representative?

ROSENBERG: The then Reich Minister Funk, of course, was shortly informed of this task given me and he named Dr. Schlotterer for purposes of liaison.

GEN. RUDENKO: You had several conversations with General Thomas, State Secretary Körner, State Secretary Backe, and Ministerial Director Riecke, regarding the economic exploitation of the Eastern territories?

ROSENBERG: I do not believe that I spoke to Thomas, and I met the other gentlemen gradually, one by one. Later I took over Riecke as liaison man to the Economic Staff East in the Ministry. I must have met Backe also later on, as is natural in the course of time. I do not know at all whether I ever met General Thomas personally, maybe I met him in passing.

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GEN. RUDENKO: Then I shall have to produce documents where you yourself speak about it.

You were negotiating with the Minister for Foreign Affairs and, as a result, the Defendant Ribbentrop appointed Grosskopf to act as permanent liaison officer with your organization, and placed on the other hand Dr. Bräutigam in charge of the political section. Is that correct?

ROSENBERG: Yes, that is correct, because the Foreign Minister was, of course, informed briefly and appointed the then Consul General Grosskopf as ambassador . . .

GEN. RUDENKO: You received competent representatives of the Ministry of Propaganda such as: Fritzsche, Schmidt, Glasmeier, and others?

ROSENBERG: Yes, that may have been so. I met most of these gentlemen for the first time then, and it goes without saying that I had to inform myself about the task.

GEN. RUDENKO: You negotiated with the Chief of Staff of the SA and requested him to place at your disposal the most experienced of the SA leaders.

ROSENBERG: Of course I also spoke to the Chief of Staff of the SA about possible capable assistants in the event of an occupation of the Eastern territories.

GEN. RUDENKO: In this connection, therefore, you will not deny that a co-ordinating center did actually exist for preparing measures of attack against the Soviet Union.

ROSENBERG: Not in that form, because all the tasks connected with the conflict with the Soviet Union were divided up from a military point of view. They were assigned to Göring in the field of economic planning; they were, as became evident later on, clearly defined with the Police. I had been given a political liaison office in order to discuss the political problems of the East, and to give the different offices ideas about the eventual political administration and the direction of this policy. In the main I did that in the sense which you find in my speech of 20 June.

GEN. RUDENKO: Very well. One and a half months before the treacherous attack by Germany on the Soviet Union, you drafted a directive for all Reich commissioners in the Occupied Eastern Territories. You do not deny that?

ROSENBERG: I already mentioned that yesterday. In the line of duty, some provisional drafts were worked out by myself and my assistants. These drafts which we have here, or which have been shown to me up to now, were not sent out in this form.

GEN. RUDENKO: I shall return to this question later.

In your report which you submitted to Hitler on 28 June 1941, regarding the preliminary work on questions connected with the Eastern territories, you stated that you had had a talk with Admiral Canaris, during which you asked Canaris, in the interests of counter-intelligence work, to choose certain persons who, while working on counterintelligence, would also be able to do political work. Do you confirm this statement?

ROSENBERG: No, that is not correct. But I heard that Admiral Canaris had organized a certain group of Ukrainians, I believe, and other nationals for some sabotage or other work. He visited me once and I asked him not to meddle with the political work, that is with the political preparatory work, and he assured me he would not.

GEN. RUDENKO: You do not deny your meeting Canaris?

ROSENBERG: The meeting—no.

GEN. RUDENKO: And the conversation in which you asked him, in the interests of Intelligence, to select certain people to help you. Do you deny that?

ROSENBERG: No—yes, I deny that. However, I do not deny the fact that, of course, if Canaris had an interesting political report it would be proper for him to inform me about it on occasion. I had no counterintelligence organization or espionage organization. During these years I never . . .

GEN. RUDENKO: We are going to submit this document to you.

*[Turning to the President.]* Mr. President, perhaps we can declare a recess now, because I still have a series of questions to ask.

THE PRESIDENT: Very well.

*[The Tribunal recessed until 1400 hours.]*

### *Afternoon Session*

THE PRESIDENT: The Tribunal will adjourn the hearing of this case at 4 o'clock in order to hear supplementary applications for witnesses and documents. The Tribunal hope, therefore, that we may be able to conclude the case of the Defendant Rosenberg before that. I mean, to conclude the case of the Defendant Rosenberg, including his only other witness, or any other witness.

GEN. RUDENKO: Defendant Rosenberg, you replied to me that the conversation with Admiral Canaris did not take place.

ROSENBERG: On the contrary, I said that such a conference with Admiral Canaris did take place.

GEN. RUDENKO: Then maybe this was wrongly translated.

ROSENBERG: Probably.

GEN. RUDENKO: I asked you whether you requested Canaris in the course of your conversation, in the interests of the counter-intelligence service, to choose men who, while working as counter-intelligence agents, would be able to do simultaneously political work. Do you remember my question?

ROSENBERG: Yes.

GEN. RUDENKO: Was that the main subject of your conversation?

ROSENBERG: That is not correct. Admiral Canaris had...

GEN. RUDENKO: That is not correct? Well, let us not go into that in detail.

In order to speed up the interrogation, I will show you a document, and I will read this passage into the record.

Show this document to the defendant. [*Turning to the Tribunal.*] I mean, gentlemen of the Tribunal, Document 1039-PS, on Page 2. The part is underlined. I will read this passage.

[*Turning to the defendant.*] This is your report on the preliminary work concerning the organization of the territory of Eastern Europe. I read:

"A conference took place with Admiral Canaris to the effect that, under the existing confidential circumstances, my office could in no way negotiate with any representatives of the peoples of Eastern Europe. I asked him to do this insofar as counterespionage work required it and then to name persons to me who, over and above counterespionage service, might be regarded as political personalities, in order to determine their possible utilization later. Admiral Canaris said that of course he would take into consideration my request not to

recognize any political groups among the emigrants, and that he intended to act in line with my statements.”

ROSENBERG: That is in accord with what I said.

THE PRESIDENT: General, I think you are going a little too fast.

GEN. RUDENKO: All right, Mr. President.

[Turning to the defendant.] I ask you, do you confirm this quotation?

ROSENBERG: Yes, in the German wording but not in the Russian translation. I understand Russian also and can, therefore, determine that the translation is not entirely correct; for it says here that I, under the existing confidential circumstances, naturally could not negotiate with other countries for eventual collaboration in a civilian administration. That is the first point. And point two is that, since Admiral Canaris had to do with various groups of Ukrainians, Russians, and other people, I was asking him—apart from counter-intelligence, that is—not to do espionage work for me or ask me to do espionage work but that he should point out to me people of other nationalities whom I could use later—under given conditions—in civilian administration. That was the meaning; and furthermore, at the end it is quite correct that he agreed not to carry on any political work himself.

GEN. RUDENKO: Defendant Rosenberg, this absolutely follows the Russian text. What you just told us now means exactly the same in Russian.

ROSENBERG: According to the German translated into Russian it must have been that. I can recognize only the German text, not the Russian translation, which is not in accord with this meaning. You interpret this text as though I were trying to carry on espionage work. I asked Admiral Canaris, since I could not carry on political negotiations with representatives of the Eastern people, simply to tell me from his personal knowledge, apart from his official capacity, what people of the Eastern regions, under certain circumstances, might later work in the civilian administration for me. That is the meaning. The translation is, therefore, not entirely correct.

GEN. RUDENKO: Very well; but you confirm the German text?

ROSENBERG: Yes.

GEN. RUDENKO: It means you were connected with counter-espionage?

ROSENBERG: No, that is not correct. I only received Admiral Canaris and told him that, in his official capacity in which he had to function, he should not deal with political negotiations and plans, because I was now being given that task.

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GEN. RUDENKO: You heard the admonition of the President of the Tribunal about answering briefly, and I beg you to do so.

ROSENBERG: I would answer more briefly if the questions were put to me factually.

GEN. RUDENKO: I will put to you several questions concerning the aims of the war against the Soviet Union. Do you admit that Nazi Germany, having prepared and pursued war against the Soviet Union, aimed at plundering the economic riches of the Soviet Union, the extermination of her people, the enslavement of the peoples of the Soviet Union, and the dismemberment of the Soviet Union? Answer briefly. Do you admit this, or not?

ROSENBERG: Five questions are being put to me again, and if . . .

GEN. RUDENKO: I ask you please answer briefly: Do you admit the aims of the aggression as I have put them to you? You will be able to give your explanation later.

THE PRESIDENT: You can answer that question "yes" or "no."

ROSENBERG: I must answer "no" to all four questions.

GEN. RUDENKO: You deny it. All right. Let us turn to a new document in this connection. I mean the Document 2718-PS, which is in the minutes of the morning session of 10 December 1945. That is your memorandum dated 2 May 1941. [*The document was handed to the defendant.*] Will you please follow? This document reads as follows:

"1) The war can be continued only if all the Armed Forces are fed with stocks from Russia in the third year of the war.

"2) There is no doubt that as a result many millions of people will die of starvation if we take out of this country everything that we need."

I ask you now, did you write that?

ROSENBERG: I neither wrote that nor did I participate in this session, and I cannot determine whether any one of my collaborators knew anything at all about this meeting. It says here, "Senior officers only, two copies, one for the files (I-a) and the second General Limbert." Therefore, only two people in the Armed Forces knew about this.

GEN. RUDENKO: Do not go into that in detail, Defendant. You do not know about this?

ROSENBERG: This document has been submitted twice already.

GEN. RUDENKO: Let us go on to the next one.

THE PRESIDENT: The question was whether you knew of this document.



ROSENBERG: No.

GEN. RUDENKO: We come to the next document, which determines the aims of the war. This is your instruction to the Reich Commissioner for the Baltic countries and for Bielorussia. You stated the following—I mean now the Document 1029-PS; the part which I will read is marked in the margin:

“The aim of a Reich Commissioner for Estonia, Latvia, Lithuania, and Bielorussia must be to strive for the creation of a German protectorate, with a view to transforming these regions later into a part of Greater Germany by the Germanization of racially admissible elements, the colonization of Germanic peoples, and the resettlement of undesirable elements.”

Do you remember these instructions? Please reply first.

ROSENBERG: Yes, I am familiar with this document. I already remarked yesterday that at the beginning all sorts of drafts were made in my office which were not approved by me. The corrections were made by me.

GEN. RUDENKO: I asked you very clearly, do you know these instructions or not?

ROSENBERG: But I still heard the wrong translation. Nothing is mentioned about “destruction,” but “incorporation,” and the Russian translation again said “destruction.” If it is translated that way, then my question appears in the Russian language as an approval of destruction; and that is a wrong translation which is being made here, which I can follow only because I speak Russian.

THE PRESIDENT: Defendant, you can be heard perfectly well without shouting.

ROSENBERG: I beg your pardon.

GEN. RUDENKO: You are only correcting an error in the translation. Now as regards the rest—Germanization and colonization—is that right? Does that sound right in German? Answer me. Is that right or not?

ROSENBERG: Even in that way it is not translated quite correctly. Here it says “colonization of German peoples,” and now you are translating “Germanization and colonization.” These are two substantives which again give correspondingly different sense, and I would like to add that these drafts made by a collaborator of mine were not actually issued, and that they in no way constitute instructions.

GEN. RUDENKO: I do not ask you, was it issued or not; but I ask you, was there such a draft? Will you deny that?

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ROSENBERG: I am not disputing that such a draft was submitted to my office.

GEN. RUDENKO: All right. We pass on.

These instructions concern the aims of the war. They are instructions for all Reich Commissioners of the Occupied Eastern Territories, dated 8 May 1941. This is Document 1030-PS. I will read only a short excerpt, which states—I quote from Page 4. This excerpt is marked in the margin. In these instructions you state that this coming struggle would be a struggle for the supplying of Germany and all of Europe with raw materials and foodstuffs. Do you confirm this?

ROSENBERG: Yes.

GEN. RUDENKO: Then you confirm that.

ROSENBERG: Yes, of course. This document was presented in my office as a draft. That is correct, and I am not disputing it.

GEN. RUDENKO: Do not go into details again. I will remind you once more, please reply briefly. You confirmed this point, and that is enough.

ROSENBERG: This document, yes.

GEN. RUDENKO: All right. This statement was made by you previous to the attack on the Soviet Union. I will remind you, but I will not submit the document to you since it has already been presented to the Tribunal several times and is at the disposal of the Tribunal. I mean a conference which took place in Hitler's office on 16 July 1941.

*[Turning to the Tribunal.]* This is Document L-221, Mr. President.

*[Turning to the defendant.]* You were present at this conference, were you?

ROSENBERG: Yes.

GEN. RUDENKO: Hitler said then that the Baltic States would have to become an integral part of the Reich, and the same applied to the Crimea with adjacent territories as well as to the Volga districts and also the Baku area. Do you recall these statements of Hitler?

ROSENBERG: I have seen this document, purporting to be Bormann's observations, here for the first time. At that time the Führer made very long, passionate statements. I did not take any exact notes at that conference, but he did in fact speak about the Crimea, and he said that, because of the tremendous power of the Soviet Union, no bearers of arms should be allowed there later and...

GEN. RUDENKO: I do not ask why. I ask you: did he say that?

THE PRESIDENT: General Rudenko, you are going too fast. You must wait until the man is finished.

GEN. RUDENKO: He is going into too many details, Mr. President.

[Turning to the defendant.] Well, you admit the Crimea. You agreed with Hitler's idea concerning the seizure of these territories?

ROSENBERG: You can see from the document and you can see from my speech how I pictured the self-determination of all the peoples in the East in a new order of states; and I controverted the declarations of the Führer. That can be seen here. That was how I argued.

GEN. RUDENKO: I do not ask you about that. I am asking you whether you agreed with these ideas of Hitler, or whether you objected to them.

ROSENBERG: Yes, it can be proved that I protested, and it is even shown in the record.

THE PRESIDENT: The Tribunal are not concerned with whether or not it can be proved. The question is: did you agree or not. You can answer that, I suppose. Did you agree, or did you not agree?

ROSENBERG: I agreed with many points and rejected other points; but this is a compilation of at least 10 to 15 points.

THE PRESIDENT: Well, that is an answer.

GEN. RUDENKO: All right. We will return to this question in a few minutes.

I am now passing on to your own directives, which you issued as Minister for the Occupied Eastern Territories. These documents were already presented to the Tribunal as 1056-PS and EC-347. First of all, I would like to ask you one question: What is this "Brown Folder"?

ROSENBERG: The Brown Folder was compiled by the administrative department of the Eastern Ministry in response to certain requests of industry, of my political department, of the personnel department, and of the technical supply department for officials in the Baltic States and in the Ukraine. Thus it was the first attempt at a general regulation.

GEN. RUDENKO: All right, then that is a sort of "Green Folder." It is quite clear.

Now, let us turn to your directives, Document EC-347. We will show you this document right away. Will you note the passage which has been underlined, on Page 39 of the document, if I am not mistaken. I will read this paragraph:

"The first task of the civilian administration in the Occupied Eastern Territories is to represent the interests of the Reich."

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I omit a few lines:

"The stipulations of the Hague Convention regarding land warfare, which deal with the administration of territories occupied by a foreign power, do not apply, since the U.S.S.R. can be considered as nonexistent. . . ."

Then further:

"Therefore, all measures which the German administration deems necessary or suitable in order to carry out this extensive task are admissible."

Do you agree that this exposes your secret designs, although you somehow too hastily proclaimed the Soviet Union as destroyed?

ROSENBERG: In the Russian translation I again heard the word "plundering," but the word "plundering" does not appear in this German text. If the German text is translated in such a way that the word "plundering" appears everywhere, although in the German . . .

GEN. RUDENKO: I interrupt you and say that the word "plundering" is not in the Russian text, which I just read into the record; so I believe you are simply inventing, or at least you did not hear rightly.

ROSENBERG: May I say a few words in this connection?

GEN. RUDENKO: I ask you, did you write this?

ROSENBERG: I did not, in fact, write it, but it was a circular letter which was issued by the Ministry of the Occupied Eastern Territories, and, therefore, I am officially responsible for this Brown Folder. But I would like to say a few words of explanation in regard to this—the explanation about the status of international law in the East I received from the Führer's headquarters. It stated that, in accordance with the attitude of the Soviet Union toward certain conventions, as far as the Hague Convention was concerned, it did not apply to the Soviet Union in this instance. Furthermore, as this document contains many pages, I was not able to read it in its entirety at the time; but on the second page I have already found a paragraph which shows very obviously what lines the wording followed. It states as follows . . .

GEN. RUDENKO: Defendant Rosenberg, one minute, please.

ROSENBERG: But I must be allowed to read from the document.

THE PRESIDENT: We must try and conduct this cross-examination in an orderly fashion. Now, what is the question?

[Turning to General Rudenko.] What is your question?

GEN. RUDENKO: I put to him the question, whether he admitted that he knew of the tasks put before the civilian administration in

the occupied territories as they are set forth in the quotation which I just read. He said that he did know. I have exhausted my questions in this particular sphere. The document is in possession of the Defense and the Defense will be able to quote other parts of this document which have not yet been read into the record. This is a very long document. If I had tried to quote it to the Tribunal in its entirety it would have taken too much time.

THE PRESIDENT: [*To the defendant.*] You answered the question. I understood what the question was, and that you were told that the Hague Convention did not apply to Russia.

ROSENBERG: Yes. May I quote this one paragraph on Page 40, the next to the last paragraph:

"The most important prerequisite for this"—that is, for the development of the East—"is the treatment of the country and of the people in a corresponding manner. The war against the Soviet Union is—with all necessary regard to the securing of foodstuffs—a political campaign with the establishment of lasting order as its objective. The conquered territory as a whole is, therefore, not to be considered an object of exploitation, even if the German food and war economy must lay claim to considerable areas on a large scale."

And I believe I may say that the fact that the necessities of the inhabitants are taken into consideration cannot be expressed more clearly.

GEN. RUDENKO: Very well. I will put to you a few more questions as to how you treated the population, although we have heard quite a lot about this treatment, as you have too. We pass on.

I asked you about the Crimea and you said, "Yes, Hitler proposed to annex the Crimea to Germany." Do you remember that you did not only approve of these plans, but you also invented new names for towns—for instance, Simferopol was to be called "Gotenburg" and Sevastopol was to become "Theodorichshafen." Do you remember that?

ROSENBERG: Yes, that is correct. The Führer told me that I should think of a change of names for these cities. The renaming of very many other cities was discussed, too.

GEN. RUDENKO: Yes, of course.

DR. THOMA: Mr. President, I am expected to conclude my entire presentation of evidence with respect to Rosenberg by 4 o'clock. I do not know how I can do that.

THE PRESIDENT: The Tribunal has not laid that down as a condition. I did not make any order about it. I said only that the Tribunal hoped, and the "hope" was addressed more to the Prosecution than it was to the Defense.

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DR. THOMA: Mr. President, if I may be permitted to say so, the Soviet Prosecutor has submitted documents again which I already submitted yesterday, and on which the defendant has already given answers. I am referring to Documents 1029-PS and 1030-PS. The defendant himself already said...

THE PRESIDENT: You are wasting the time of the Court by making this entire interposition.

GEN. RUDENKO: Thus you admit the change of the names of Simferopol and Sevastopol.

Next question: You also worked on the reorganization of the Caucasus, and you had organized a special staff. Will you answer "yes" or "no"?

ROSENBERG: Yes.

GEN. RUDENKO: Furthermore, you favored Prince Bagration-Mukhransky, an adventurer from the emigré circle, as candidate for the throne of Georgia. Is that true? Answer briefly.

ROSENBERG: Yes, that is true. We did mention that—we spoke about him—but we turned down such a candidacy.

GEN. RUDENKO: He was turned down. Is that so? Very well.

As regards the reorganization of the Caucasus, on 27 July 1942 you compiled a special report; is that true?

ROSENBERG: It may be that a report was made. Yes—yes, naturally, it is quite a lengthy report. It has been submitted here.

GEN. RUDENKO: And I will show you this report in order to draw your attention to one short quotation.

[Turning to the President.] I have in mind, Mr. President, a document which has already been submitted as Exhibit USSR-58.

[Turning to the defendant.] Defendant Rosenberg, please pay attention to Page 7, a passage which is marked, which says first that the German Reich must seize all the oil. Have you found this passage?

ROSENBERG: On Page 7 of the text I find the passage—yes, I have found it.

GEN. RUDENKO: The text reads:

"From the economic point of view the German Reich must take control of the total oil supply. The necessary participation in the riches could be discussed in the future."

Do you confirm that this statement was made by you?

ROSENBERG: This document is a memorandum of my office, and I confirm that it is true.

GEN. RUDENKO: Very well.

ROSENBERG: May I make a remark in addition? Here we are not talking about the oppression of a people but of an assurance of autonomy and of every possible mitigation for these people. Only I cannot locate that at once from a document which has 14 pages if I only read one sentence.

GEN. RUDENKO: I have just questioned you concerning the tasks of the German Reich with regard to this matter of oil. Now if you look at Page 14 of this same report you will find it at the very end—this is how you define the tasks:

“The problem of the Eastern territories consists of a transference of peoples from a Baltic to a German field of culture and the preparation for the military frontiers of Germany on a vast scale. The task of the Ukraine is to provide Germany and Europe with foodstuffs and the continent with raw materials. The task in the Caucasus is, above all, of a political nature and represents the decisive extension of continental Europe, under German direction, from the Caucasian isthmus to the Near East.”

Did you read this passage?

ROSENBERG: Yes.

GEN. RUDENKO: You do not deny that these were the actual plans?

ROSENBERG: I affirm that this is set down correctly, and that it is in accord with our hope that eastern continental Europe might, some time, be incorporated into the total economic system and economic supply of the rest of the continent, as had been the case before 1914; for at that time the Ukraine was an important country of exports of raw materials and foodstuffs.

GEN. RUDENKO: Yes, your plan concerning the Ukraine is well known. In this connection I will put the last question concerning aggression. After having seen these documents, which you do not deny, do you admit the aggressive and plundering character of Germany's war against the Soviet Union and your personal responsibility for the planning and carrying out of this aggression? Answer briefly. Do you admit this, or do you not?

ROSENBERG: No.

GEN. RUDENKO: No? Very well.

ROSENBERG: No, because I did not consider this a war of aggression on our part but just the opposite.

GEN. RUDENKO: Of course; but we will not go into details.

I have a few more questions to put to you concerning the German administration and the German policy in the Occupied Eastern Territories.

Who was the highest official in the civil administration in the Reich Commission?

ROSENBERG: The Minister for the Occupied Eastern Territories was responsible for the administration and legislation in the Eastern Territories, and the Reich Commissioner, for the territorial governments.

THE PRESIDENT: General Rudenko, the Tribunal have already heard all about the administration—the former administration—and personnel of the administration.

GEN. RUDENKO: Mr. President, I have only two or three more questions in this particular sphere.

[Turning to the defendant.] Did the Reich Commissioner have the authority to issue orders for the arrest and execution of hostages?

ROSENBERG: At this moment I cannot recall whether he had such authority by law, or whether that came under direct police jurisdiction. I cannot answer this question with assurance, for at the moment I do not recall a decree to that effect, but it is not entirely impossible; I do not know.

GEN. RUDENKO: It was possible? Very well.

I would like to remind you that you foresaw in your directive this authority of the commissioners to shoot hostages. We will pass right on.

A lot has been said here about German policy in occupied territories. I will, therefore, put only a few questions to you.

First of all, as regards the Ukraine, you have here described the situation in such a light as to show that Koch was the sole person responsible, whereas you have always asserted that, on the contrary, you were the benefactor of the Ukrainian people.

ROSENBERG: No, that is not correct; I never said that I was a benefactor.

GEN. RUDENKO: In your document, which has been submitted by your defense counsel and which I will therefore not submit to you, Document Rosenberg-19, Riecke wrote, in a letter to all Reichsleiter of the press in November 1942:

“Koch has declared ‘that the Ukraine is for us only an object of exploitation, and that it must pay the expenses of the war, and that in a certain way the population must, as a second-rate people, be utilized for the tasks of the war, even if they have to be caught with a lasso.’”

This was the policy of Koch in the Ukraine. This document was submitted by your counsel. I will ask you now: Did you write to Koch on 14 December?



ROSENBERG: May I reply to that? I do not have the verbatim document in front of me. I only know that it was a letter written by Riecke to me with the big complaint which so many others had also had, and that he requested me...

GEN. RUDENKO: Koch?

ROSENBERG: Yes—to complain, and that he used rather drastic language, and that we both strove to reach orderly methods of work here.

THE PRESIDENT: The Tribunal have been all over this matter of Koch as to the Ukraine today, and so it is not helping the Tribunal to go over it again.

GEN. RUDENKO: All right, Mr. President.

[Turning to the defendant.] Yesterday you stated here repeatedly in your explanations as regards the atrocities and extermination of the Soviet population that you were not informed, and that these were police measures. Did I understand you correctly?

ROSENBERG: No, that is not exactly true. I was informed of many combats with partisans and of bands and, as I have stated, of some shootings; and also I was told about the fact that German agricultural leaders, German officials and policemen, and peaceful Soviet farmers were attacked by these partisans and bands and were murdered by thousands.

GEN. RUDENKO: Very well. We know that the partisans who fought against the enemies of their country were called bandits by you and treated accordingly. I do not argue that. But I am speaking of the extermination of the civilian population, of old men, women, and children. Did you have knowledge of this?

ROSENBERG: In these combats we tried especially to protect the farming population and others too; and when we heard about what appeared to us to be excessive measures by the Police, we put the most severe demands to them that even in the full heat of battle these matters were to be considered; and the Police told us that it was easy to make those demands from behind a desk, but, if in White Ruthenia the partisans murder and burn 500 White Ruthenian burgomasters with their families in their houses and we are shot at from the rear, then terrible conflicts must follow.

GEN. RUDENKO: I will remind you that, in your directive concerning occupied territories and organization of administration and the primary task for administration, you personally planned the police measures as your first task. Do you deny this now? I ask you, do you deny this now?

ROSENBERG: If it is Document 1056-PS, I proposed seven urgent measures. I cannot tell you at the moment which is the first one here. I ask that you submit this document to me.

GEN. RUDENKO: All right. I will ask that one paragraph of this document be shown to you, "Police measures," which is in the very first place.

THE PRESIDENT: Has this document been put to him?

GEN. RUDENKO: Yes.

THE PRESIDENT: What is the use of going into it again?

GEN. RUDENKO: Mr. President, Defendant Rosenberg asked for it. I would like to say simply that the defendant tried to make me believe that he was not informed and that these were purely police measures. I am going to prove that he put as his primary task the carrying out of these police measures.

ROSENBERG: It goes without saying that in an occupied territory in the middle of such a war the Police are responsible for police protection measures. And the third point is "the supply of the population with foodstuffs in order to avoid famine." I repeat, "supply of the population in order to avoid famine."

GEN. RUDENKO: Very well. Very well. We heard about this in detail yesterday. I have a few last questions to put to you. First of all, I would like to ask you about the Zuman incident. The document has already been submitted to the Tribunal, but I consider it my duty as a representative of the Soviet Union to put to you this question concerning the shooting of Soviet citizens for the sole purpose of obtaining a stretch of land needed as a hunting ground. You remember this document?

ROSENBERG: Yes, I gave an extensive explanation on it yesterday.

THE PRESIDENT: General Rudenko, this has been gone into before before the Tribunal. Why should the Tribunal's time be taken up by going over and over again on the same grounds? We have said that we would not have things done cumulatively.

GEN. RUDENKO: Mr. President, a few details of this question are of great importance, and the defendant did not explain them; therefore, I would like very much to ask this question.

THE PRESIDENT: Very well, the Tribunal will adjourn to consider the matter.

*[A recess was taken.]*

THE PRESIDENT: First of all, the Tribunal will rise tomorrow afternoon at half past 4.

Now, as to this question, the Tribunal think that the matter has been sufficiently gone into; but, if there is a particular point which has not been dealt with before, a question may be asked in that connection.

GEN. RUDENKO: Very well, Mr. President.

[Turning to the defendant.] Defendant Rosenberg, on 2 April 1943, you addressed a letter to Himmler regarding this incident regarding the shooting of hundreds of Soviet citizens in the region of Zuman, because this place was needed as a hunting ground. Did you not address such a letter to Himmler? Until June 1943, furthermore, you were interested in receiving a reply. What were the results of this letter?

ROSENBERG: First, I wrote to the Chief of the German Police; and I had to wait for what he, as the official responsible for the measures of security in the Ukraine, might cause to be done. When I did not receive any further information, I brought this case as a personal complaint before the Führer.

GEN. RUDENKO: When did you report it to Hitler?

ROSENBERG: This complaint to the Führer was dealt with in the middle of May 1943 and, since it was a rather lengthy complaint, probably reached him several weeks in advance, that is, 5 or 6 weeks elapsed between 2 April and the day it was dealt with, the middle or end of May. I believe that is a very short time for dealing with a complaint because: First it had to be investigated rather thoroughly by Lammers and Bormann; then it had to be reported to the Führer; the Führer then had to make his decision and give his directives; and then I was summoned.

GEN. RUDENKO: When was this complaint discussed for the last time?

ROSENBERG: In May—between the middle and the end of May 1943.

GEN. RUDENKO: Was it discussed in the presence of Koch?

ROSENBERG: Yes, indeed.

GEN. RUDENKO: Yesterday you told the Tribunal that Koch presented a report to Hitler—a memorandum from the Forestry Office. Is that true?

ROSENBERG: Yes.

GEN. RUDENKO: Therefore, this memorandum confirmed that it was a fight against the partisans?

ROSENBERG: Not quite exactly like that, but it said that this forest district had to be utilized for the necessary supply of lumber for the Armed Forces or the Administration and that these needed forests harbored many restless partisans and guerrilla bands. Therefore there was great danger for the workers in these districts and it had come to shootings between them and partisans and guerrilla bands; and, since one could not watch over all of them, a transfer of

certain groups from these forest districts into forest areas farther south took place. Koch added that then many of these people who had been transferred expressed their thanks for having received better land than they had had before. That was the information that Koch had given.

GEN. RUDENKO: They were grateful that one December night they were evicted from their houses and taken away hundreds of kilometers and hundreds of them shot. They appreciated that very much. I should like to ask you the following, however. In your letter to Himmler on 2 April 1943, you also attached a memorandum from the Forestry Office; and in this memorandum it is stated—I am going to read this passage—you should remember this incident—this terrible incident when men were shot because hunting ground was needed. In the memorandum of the Forestry Office it is stated, "There is no doubt that several villages located in the forest region of Zuman were evacuated principally in order to create a hunting area." This is stated in the memorandum of the Forestry Office.

ROSENBERG: I only want to point out that we are dealing here with an assistant of the Forestry Office in Berlin, who had added that on the basis of his reports. What Koch had produced was a report from the Chief of the Forest Administration in the Ukraine, himself.

GEN. RUDENKO: All right. The last question in connection with this incident: Did you believe Koch when he stated that?

ROSENBERG: If I am asked on my conscience, that is hard to answer; but there was a . . .

GEN. RUDENKO: It is exactly on your conscience, if you like.

ROSENBERG: A description of actual conditions by the Forestry Administration was included, and I could not protest against such a presentation since it appeared well-founded, and I had to admit to myself that I had made a mistake in protesting.

GEN. RUDENKO: You did not protest against that, I quite understand. I shall finish by just reminding you of one quotation from your letter:

"Hundreds of people in and around Zuman were shot by using a whole police company 'because they were communistically inclined.' No Ukrainian believes that. The Germans are also astonished by this argument; because, if this was done for the safety of the country, then the communist-infected elements in other regions should have been executed at the same time."

I have here to put to you the last question. Here in the Tribunal yesterday you declared several times that you wanted to resign from your post. Moreover, you spoke about your letter to Hitler, dated

12 October 1944, where you asked for directives for the future. Regarding this my colleague, Mr. Dodd, has already reminded you that at that date, 12 October 1944, the Reich Minister for the Occupied Eastern Territories no longer had any territories, because the Germans were out of Russia by that time. I would like to ask you the following question: How could you ask to be relieved of your post, you, who for years had dreamed about getting this position of Reich Minister and even becoming a member of the Secret Cabinet? You asked Hitler to grant you this position of Reich Minister. Do you remember that?

ROSENBERG: In the first place I was never a member of the so-called Secret Cabinet. That is not correct.

GEN. RUDENKO: Well, I shall correct myself. You dreamed of becoming a member of the Secret Reich Cabinet.

ROSENBERG: Yes, that is correct.

GEN. RUDENKO: And also dreamed of becoming Reich Minister; is that also true?

ROSENBERG: When the question as to my task became acute, there was a long discussion one way and another about the form of that task. Dr. Lammers, commissioned by the Führer, told me that the Führer intended either to appoint a Reich inspector because he wanted both Reich Commissioners to . . .

GEN. RUDENKO: Defendant Rosenberg, please. So that we shall not linger too long on that question, I am going to submit to the Tribunal a document: This is your personal letter—the last document . . .

THE PRESIDENT: In the first place, I do not know what the question is, and you are interrupting the witness before he has answered any question.

GEN. RUDENKO: No, Mr. President. I have but one aim here, because I should also like to shorten my interrogation in accordance with the desire of the Tribunal. So I am going to submit the letter of Rosenberg of 6 February 1938, addressed to Hitler, wherein he requests the post of Reich Minister from Hitler. That is a short letter. I ask permission to submit this document as Document USSR-117.

*[Turning to the defendant.]* Defendant Rosenberg, I am going to read this document into the record. It is not very long:

“6 February 1938. My Führer, because I was unable . . .”

THE PRESIDENT: The document is translated into German, is it not?

GEN. RUDENKO: The original is in German.

THE PRESIDENT: It is in German to start with. It is not necessary to read it all; you can put it in like other documents.

GEN. RUDENKO: Very well.

[Turning to the defendant.] In this letter you expressed your resentment in connection with the appointment of the Defendant Ribbentrop as Minister of Foreign Affairs. Is that correct?

ROSENBERG: Yes, yes.

GEN. RUDENKO: You thought that the post of the Minister of Foreign Affairs in the Hitler Cabinet could have been filled by yourself, Defendant Rosenberg; is that correct?

ROSENBERG: Yes, and I do not find it so extraordinary that I should not have expressed my wish to be used in the State service of the German Reich after so many years of activity.

GEN. RUDENKO: Very well. You speak in this letter of the existence of a secret cabinet; is that correct?

ROSENBERG: Well, may I read through this letter a little? Because I cannot answer fragmentary questions.

GEN. RUDENKO: Very well, yes. [Handing the document to the defendant.] Please read it through.

ROSENBERG: Yes, I have read this.

GEN. RUDENKO: Everything that is contained in it is correct?

ROSENBERG: Certainly, yes.

GEN. RUDENKO: This is your own letter?

ROSENBERG: Yes.

GEN. RUDENKO: You asked to be appointed into this secret Reich Cabinet?

ROSENBERG: Yes.

GEN. RUDENKO: You asked for the position of Reich Minister?

ROSENBERG: I reported that I had spoken to Party Member Göring about the question of this appointment; and since the Führer had charged me with the ideological education of the Party and since the foreign political office of the Party still existed and the impression might thereby arise in the Party that I had somehow been refused by the Führer, I therefore asked the Führer to receive me personally to discuss this matter. I think it quite understandable that I should express the wish to speak about a matter which was important to me personally.

GEN. RUDENKO: Therefore—here is my last question—you were the closest collaborator of Hitler in carrying out all his plans and his ideas?

ROSENBERG: No, that is not correct; that is absolutely wrong.

GEN. RUDENKO: Very well, let us consider it as a reply to my question. I have finished, Mr. President.

M. HENRI MONNERAY (Assistant Prosecutor for the French Republic): I have only a few questions to ask the defendant.

[Turning to the defendant.] Defendant Rosenberg, is it correct that the deportation and the execution of the Jews in France put your organization in a position to seize furniture and valuables which belonged to these Jews?

ROSENBERG: It is quite true that I received a governmental order to confiscate archives, works of art, and later, household goods of Jewish citizens in France.

M. MONNERAY: The mass deportation of Jews could only increase the profits of your confiscation and seizures; is that not so?

ROSENBERG: No. The deportation of Jews has nothing to do with that. The suggestion for these measures was given only when I was informed that the Jewish people in question no longer inhabited their institutions, castles, and apartments—that they had left Paris and other places and had not returned.

M. MONNERAY: Once the Jews were deported they were absent; is that not true?

ROSENBERG: When the German troops marched in, Paris was almost entirely depopulated. The rest of the Parisians and inhabitants of cities in the north of France returned in the course of time; but, as I have been informed, the Jewish population did not return to these cities—particularly not to Paris. Therefore they had not been deported, but they had fled. I believe the number of those who had fled was given as 5, 6, or 7 millions or more.

M. MONNERAY: Do you mean to say by that, Defendant Rosenberg, that in the time that followed, when new deportation measures were carried out in the course of the German occupation of France, the apartments and homes of people deported were not seized by your organization?

ROSENBERG: No, I cannot express it that way. It may very well be that the apartments of Jewish persons who had been arrested had also been confiscated under certain circumstances, but I cannot give any exact information about that.

M. MONNERAY: One can, therefore, say that the deportation measures gave to your organization a greater chance of success in seizures and confiscations; is that not true?

ROSENBERG: No, that does not agree with the facts; but, as may be seen from the report which the French Prosecution made

here, what actually happened was that confiscated apartments generally were sealed by the Police. Two months were allowed to elapse to see whether or not the owners of these apartments would return, and only after the fact had been established that this was not the case were the household goods transferred to Germany for those whose homes had been damaged by bombs. That can be seen from the report which the French Prosecution has submitted here.

M. MONNERAY: I suppose that there are very few cases—and I am sure you would agree with me on this—of people who had been deported returning after two months?

ROSENBERG: On the contrary! I was informed about such cases. Even in Document 001-PS, regrettable as it is from the humane point of view, it is clearly stated that we had heard that a large number of Jewish personalities, who had been formerly arrested, had been released again.

M. MONNERAY: You remember, certainly, the memorandum which you sent to Hitler on 3 October 1942, which has already been presented to the Tribunal as Document Number RF-1327. In that document you remind Hitler of your jurisdiction and your powers; and you say that it is a matter for you, as Reich Minister for the Occupied Eastern Territories, to seize the homes of Jews who had taken flight, who were absent, or who were called upon to leave. I can submit this document to you in order to refresh your memory if necessary.

*[The document was submitted to the defendant.]*

The first lines of that document are the ones I am referring to. I emphasize the words "the Jews who were called upon to leave later." It is a document of 3 October 1942, which has already been submitted.

ROSENBERG: Yes, that is correct—that is according to the facts. And as I have already said before, it is possible that a number of apartments of arrested people—other people who were absent—were included in that; but as I said before, in the other report there was more detailed information. But this document as such corresponds to the facts; it is a letter from me.

M. MONNERAY: The consequence of this act was that you were entrusted not only with the seizure of apartments which you found vacant at the time of the arrival of the Germans in Paris but also of apartments of people who were, as you say, "called upon to leave" in the following period.

You surely know, Defendant Rosenberg, under what conditions, in territories occupied by the Germans in the West as well as in the East, Jews were called upon to leave—namely, in special trains which generally led directly to concentration camps?



ROSENBERG: No, I did not know about those trains. We definitely dealt with deserted apartments, and I was probably informed that eventually also the apartments of people who had been arrested, people who were still living, or had long since fled would be taken into consideration. Nothing more is stated here, and I could not give you any further information. As to the reports which have been submitted here at the Trial, I have seen them here for the first time. I can only tell you that in the end I was informed that, before the conquest of Paris by Allied troops, all available furniture and household equipment was turned over to the French Red Cross.

M. MONNERAY: Do you agree with me on the following point: That your organization had the right to seize valuables and apartments which had become vacant after the arrival of the German troops in Paris? Do you agree with me on that point?

ROSENBERG: Yes.

M. MONNERAY: Defendant, you have just said that you had no knowledge whatsoever of the deportations in special trains to special destinations. Do you know—and I suppose you do know it since the document to which I am referring has already been produced before the Tribunal—that in Paris every Tuesday since 1941 and until the end of the German occupation conferences called “Tuesday meetings” brought together the representatives of the various German organizations in Paris—that is to say, the experts in Jewish affairs in the different German administrative organs—to be exact, a representative of the German Military Command, a representative of the Civilian Administration, a representative of the Police Department, and a representative of the Economics Department? At these meetings there was also present a representative of the German Embassy in Paris and also a representative of your Special Staff.

I am referring to Document Number RF-1210, which is a report of Dannecker of 22 February 1942. He was the responsible chief and the main expert on anti-Jewish terrorist action in Paris during the occupation. If you wish, I will submit that document to you.

ROSENBERG: I remember these declarations made during the Trial very well, but I have never received a report about these Tuesday conferences which took place regularly. The fact that my deputy for the furniture action had to maintain closest liaison with the Police was a matter of course, since the confiscations of such articles could not be carried out by my office, that being an exclusive right of the Police. Therefore, one had to speak to the Police about these matters. It was not reported to me that there were regular Tuesday conferences. I believe that if such a report had been consistently turned in it would have been submitted to me.

M. MONNERAY: You agree, however, that these Tuesday meetings were extremely useful to the interests of your organization. As

a matter of fact, the various collective actions which were taken against the Jews—that is to say, arrests, police raids, and deportations—were discussed in those meetings. Did it not, therefore, seem completely logical and natural for your organization to be regularly informed of these actions in order that it might take the resulting economic steps—namely, seizures of property?

ROSENBERG: In my opinion that is not logical at all, because if that certain Chief of Police sent secret transports of that kind into these camps, as has been revealed here, then it does not follow that he would report about that every Tuesday to the other gentlemen. Neither do I believe that this Chief of Police informed the representative of the Foreign Office about these things in detail.

M. MONNERAY: You are perhaps badly informed on this point, but I would like to read again the concluding passage of the report which says, "The conference had as a result an alignment of Jewish policy as complete as could be realized in the occupied territory . . ."

THE PRESIDENT: The witness has said, has he not, that he does not know anything about these Tuesday meetings—he received no reports of them?

M. MONNERAY: Yes, Mr. President.

THE PRESIDENT: Then why are you asking about them?

M. MONNERAY: The agencies in Paris collaborated actively in the terrorist policy of the Police and benefited by it through the economic step which followed—namely, the seizure of valuables.

THE PRESIDENT: You have not been able to connect him with these reports—with the document. He has not signed the document. Nothing shows on the document that he received it—at least, I suppose not—or you would have put it to him. He says he did not know the document.

M. MONNERAY: Allow me, Mr. President, in that case to ask, whether he contests the reality of the evidence concerning the representation of his Paris organization at this meeting.

[Turning to the defendant.] Do you deny its presence at this meeting?

ROSENBERG: I cannot give any information about that, because I have not received any report.

M. MONNERAY: I would like to conclude this cross-examination by reminding you of a document which has already been produced, quoted, and discussed—that is Document 001-PS. In that document the defendant proposes, in the first paragraph, the transport of all seized household goods to the East, and in Paragraph 2 he suggests to Hitler that French Jews instead of other Frenchmen should be shot as hostages.

Considering, as a result of the questions and answers, that the organization of the defendant could benefit by these measures of execution and deportation, it seems that the real motive of this document is very clear. It is necessary—is not that your opinion, Defendant—first to get rid of the people in order to be able afterwards to seize their property?

ROSENBERG: No, that is not true.

M. MONNERAY: I have no more questions to ask, Mr. President.

THE PRESIDENT: Do you want to ask anything of the witness, Dr. Thoma?

DR. THOMA: Mr. President, may I quite briefly ask the defendant whether he wants me to ask him another question? I believe I shall have finished immediately.

ROSENBERG: No.

DR. THOMA: Thank you. The defendant does not want any more questions. Then, with the permission of the Court, I should like to call the witness Riecke.

THE PRESIDENT: Will he be long or not?

DR. THOMA: Half an hour at most.

THE PRESIDENT: All right. Well then, the defendant may retire.

*[The witness Riecke took the stand.]*

THE PRESIDENT: What is your name?

HANS JOACHIM RIECKE (Witness): Hans Joachim Riecke.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

*[The witness repeated the oath.]*

THE PRESIDENT: You may sit down.

Dr. Thoma, will you spell the name, please?

DR. THOMA: R-i-e-c-k-e.

*[Turning to the witness.]* Witness, what position did you have in the Economic Staff East and in the Ministry of the Occupied Eastern Territories?

RIECKE: I held both positions upon orders from Göring. I was in charge of the food and agriculture department.

DR. THOMA: What was the task of these offices?

RIECKE: The first main task of this office was the reconstruction of Russian agriculture; the second task was the utilization

of the surplus areas in the south for the Armed Forces and for nutrition purposes.

DR. THOMA: What offices were established for administration in the Occupied Eastern Territories?

RIECKE: In addition to the Foreign Ministry there existed a number of special assignments: Göring for agriculture, Himmler for police, and Sauckel for the recruitment of manpower.

DR. THOMA: Who was in charge of agriculture?

RIECKE: Agriculture—and also the entire economy—was under Göring. He gave his instructions directly or through State Secretaries Körner and Backe.

DR. THOMA: Were the figures for delivery—the quota in agriculture—higher than those imposed under the Soviet administration?

RIECKE: The figures imposed for delivery were adjusted to the former Russian figures. During the first year the actual quantities delivered were lower than during the Russian era. In the next year, as far as crops were concerned, they were lower; as far as livestock was concerned, higher.

DR. THOMA: Were the actual deliveries according to Göring's directives?

RIECKE: No, Göring had expected considerably higher figures.

DR. THOMA: Did Germany ship agricultural machinery—scythes and so on—into the Occupied Eastern Territories and in what quantities?

RIECKE: A large-scale program for agricultural machinery under the name of the Eastern Agricultural Program was set up in Germany whereby, with regard to war conditions, large amounts of agricultural machinery and equipment were shipped into the occupied Russian territories. The reason for that was the removal and large-scale destruction of agricultural machinery and equipment by the Russians during their retreat.

DR. THOMA: On 5 February 1942 an agricultural decree was issued. What were the reasons for that?

RIECKE: The main purpose of that agricultural decree was to get the population to co-operate voluntarily. In the beginning it was intended to maintain the collective economy. That proved to be impossible, because—as has been mentioned—part of the heavy machinery, especially tractors, was no longer available. On the other hand, it was not possible to resort to individual farming, as some of the population wished, because smaller equipment was also lacking. Therefore a compromise solution was reached by so-called agricultural co-operatives whereby the Russian peasants got

a share of the land to work, but a part of the work was still carried on collectively.

DR. THOMA: What was the result?

RIECKE: The result of the agricultural decree was generally favorable. The extent and quantity of the tillage increased. A particularly good example of the results was the conditions in the so-called Kharkov Basin, where in the spring of 1942 the farms which had been converted to agricultural cooperatives had already achieved more than 70 percent of the spring tillage, whereas the unconverted collective farms had achieved only about 30 percent.

DR. THOMA: On 3 June 1943 the so-called private property declaration was issued. What were the principles involved?

RIECKE: The basic purpose of the private property declaration was to turn over to the Russian peasants as personal property the shares of land which had been allotted to them by the agricultural decree.

DR. THOMA: How was the vegetable supply of large cities handled—for example, in the Ukraine?

RIECKE: Around the large cities considerable lands for garden plots were allotted to the working population.

DR. THOMA: Now some questions about Latvia. Did the German Administration in Latvia confiscate the land of the Latvian peasants?

RIECKE: No; on the contrary. The nationalization measures taken by the Russians during the occupation were discontinued. The land which had been separated from the farms for purposes of settlement was returned to the former owners. To say it in one sentence: The conditions existing before the Russian occupation were re-established.

COL. POKROVSKY: I beg to be excused, but I cannot understand—with the best of wishes—what all these questions, even in the remotest way, have to do with the case of the Defendant Rosenberg. It seems to me that further questions of the defense counsel, if they are along these same lines, should not be allowed.

THE PRESIDENT: Dr. Thoma, you ought to show that what the witness is testifying about is connected in some way with the Defendant Rosenberg.

DR. THOMA: With this question I want, first, to refute the Soviet assertion that after the occupation the Barons had their land returned to them—I refer to the Soviet Prosecution's document, Document Number USSR-395, which I submitted to the Tribunal yesterday. Secondly, I want to prove with it that that area was supposed to be administered in an orderly way and in such

a manner that the population co-operated voluntarily. Thirdly, I want to prove that during the entire German occupation not one Ukrainian nor one citizen of the Soviet Union starved, because the agricultural work was conducted accordingly. But I can demonstrate this proof only through statements of an expert. I believe that I have only a few more questions, and then I shall have finished with this subject of evidence.

THE PRESIDENT: Go on, Dr. Thoma.

DR. THOMA: Did the German Administration in Latvia confiscate the land of the Latvian peasants?

RIECKE: I have answered that question already. On the contrary, socialization was revoked, and the land separated for settlement purposes was returned to the Latvian peasants. In a word, conditions as existing before the Russian occupation were re-established.

DR. THOMA: Were former large German estates reinstated?

RIECKE: No. On the contrary, Latvian peasants' property—which after 1919 had been created at the expense of large German estates—was left in their hands. It remained their property.

DR. THOMA: What were the ideas behind the so-called reprivatization?

RIECKE: Reprivatization was intended to give the Latvian peasants the feeling of security derived from working their own property.

DR. THOMA: Did this law also apply to Estonia and Lithuania?

RIECKE: The law applied in a similar manner also to Estonia and Lithuania.

DR. THOMA: Do you know about a statement of Darré's to the effect that the local small farmers should be removed from their property and be proletarianized?

RIECKE: I do not remember any such statement.

DR. THOMA: Do you know about the Society for the Administration of the Eastern Territory?

RIECKE: There were two societies by that name. I assume that the one you are referring to was the one founded in order to take care of the state-owned property and the plants which were shown to have been formed during the Russian occupation in the Baltic provinces, and which were still left after the return to private ownership. In the former Russian territories of the so-called Reich Commission, the MTS organization also took care of these areas.

DR. THOMA: What was the attitude of Rosenberg toward the various measures, such as labor recruitment, delivery of food-stuffs, *et cetera*?

RIECKE: Rosenberg could not escape the orders given by the Führer. Yet he always advocated that these measures be carried out without coercion against the population, and that they be coordinated with each other.

DR. THOMA: Who took care of the Eastern Workers in the Reich?

RIECKE: To my knowledge the Labor Administration, through its labor offices.

DR. THOMA: How were the Eastern Workers quartered in the country in the Reich? Do you know anything about it?

RIECKE: The provisioning and quartering of the Eastern Workers in the country in the Reich were quite satisfactory on the whole. I received reports directly by way of the offices of the Reich Food Estate.

DR. THOMA: Can you tell us something about Rosenberg's general attitude toward the Eastern people?

RIECKE: As I have said before, Rosenberg personally wanted to get the Eastern people to co-operate. This was true especially in the matter of cultivating and maintaining their cultural life. For instance, Rosenberg, as far as I know, always intervened for the re-opening of the colleges and special schools.

DR. THOMA: Did Rosenberg have any restrictions in this sphere? Did he have to oppose other points of view to attain this goal?

RIECKE: Strong forces were at work counteracting Rosenberg's efforts; and especially in the Führer's headquarters there were Bormann and Himmler, whose opinions were strongly supported by Reich Commissioner Koch, and who in turn was supported by Bormann and Himmler in his work. That led to the fact that a large proportion of the measures which Rosenberg had planned, especially in the Ukraine, were sabotaged by Koch.

DR. THOMA: Now one last question: What do you know about the concentration camps and about the treatment of the inmates in protective custody?

RIECKE: I, of course, knew of the existence of concentration camps but not their number and what happened in them. During the years of 1933 and 1934 various representations were made about individual cases of maltreatment. Later, persons who visited concentration camps turned in definite, positive reports. In the last days of April of last year, near Berlin, I met inmates of concentration camps being marched to the rear. Conditions were so terrible that I immediately saw Himmler and asked him not to let these people go on marching but to turn them over to the enemy. That discussion took place in the presence of Field Marshal Keitel. Himmler unfortunately gave only an evasive answer.

DR. THOMA: There is one more question that just came to my mind. In addition to providing food for the Armed Forces, were measures taken in the Occupied Eastern Territories to get foodstuffs for the German people?

RIECKE: About two-thirds of the supplies of foodstuffs from the Occupied Eastern Territories went directly to the Armed Forces. The remaining third was shipped to Germany, and we always considered it as compensatory for the feeding of the foreign workers, whose number was increasing continuously.

DR. THOMA: I have no more questions.

THE PRESIDENT: Do any of the defendants' counsel wish to ask any questions?

DR. SEIDL: Witness, you were State Secretary in the Reich Ministry for Food and Agriculture; is that correct?

RIECKE: Yes.

DR. SEIDL: Is it correct that the Chief of the Main Department for Food and Agriculture in the Government General was frequently in Berlin in order to try to fix quotas there which would be bearable to the population?

RIECKE: As I recall, he several times expressed that opinion during the regular negotiations which took place with the Government General.

DR. SEIDL: According to your own observations, what was the food situation of the population of the Government General?

RIECKE: According to my own observations and the reports which I received, the rations which had been fixed were far lower than in the Reich, but considerable compensation was achieved through both the black market and the open market.

DR. SEIDL: Is it correct that every effort was made by the administration of the Government General to increase agricultural production?

RIECKE: Considerable efforts were made by the Government General to promote agriculture; and one can even say that the entire remaining industry, insofar as it was not used for armament, worked exclusively for the production of food. Furthermore, fertilizer was shipped from the Reich, although only in limited quantities, as well as machinery and equipment, in accordance with the program for the Eastern territory.

DR. SEIDL: What percentage of the total German food supply did the occupied countries deliver?

RIECKE: According to the calculations which were made independently by our Ministry, the deliveries from occupied territories



in 1942 and 1943 amounted to about 15 percent of the total food supply of Germany, during the other years around 10 percent, usually less.

DR. SEIDL: Now one last question: The Soviet Prosecution have submitted a document, Document USSR-170. It deals with a meeting of the chiefs of the German offices in the occupied territories which took place on 6 August 1942 under the chairmanship of the Reich Marshal. I will have this document handed to you, and I want you to tell me whether the description given in that document correctly characterizes the relations between Germany and the occupied territories. You were present at that meeting yourself.

*[The document was submitted to the witness.]*

RIECKE: The document represents the minutes of the meeting in which I took part. First, I have to say that the document—that is to say, the minutes—principally contains the speech of the Reich Marshal, and does not indicate the actual relations between Germany and the occupied territories with regard to the food situation. The demands which Göring made in this meeting were so high that they could not even be taken seriously. It was also clear to us, engaged in the food sector, that in the long run we could never achieve anything by force. The additional demands which Göring made in that meeting were actually never fulfilled. I do not think that Göring himself believed that these quotas could be fulfilled. As far as I know, Göring's additional demands were never submitted at all to France; Belgium in spite of a prohibition received grain; and Czechoslovakia got fats in spite of another prohibition.

On the day before that meeting, there had been a conference of the Gauleiter which—as well as I can remember—was dominated by the increasing air attacks in the West and the augmenting difficulties, especially for the population, resulting therefrom. The western Gauleiter were of the opinion that the food supply for Germany was becoming insufficient in view of the increasing burdens for the population, but that, on the other hand, a large part of the occupied territories was still enjoying a surplus. The Reich Ministry for Food and Agriculture and the representatives of the occupied territories themselves were in a certain sense accused of not demanding and delivering enough from the occupied territories. Göring followed up these demands; and, due to his disposition and his temperament, this led to the strong exaggerations contained in the minutes and in this document.

DR. SEIDL: I have no more questions.

DR. SERVATIUS: Witness, how were foreign workers fed in Germany?

RIECKE: All groups of foreign workers, with the exception of the Eastern Workers, received the same rations as the German population.

DR. SERVATIUS: And what about the supplies for the Eastern Workers?

RIECKE: For certain items the Eastern Workers received less than the others; and in the case of bread and potatoes, higher rations.

DR. SERVATIUS: Was the food supply such that the state of health of the workers was endangered?

RIECKE: That question cannot be answered in a clear-cut fashion. It must be considered in connection with the performance demanded of the workers. For normal work these rations should have been entirely sufficient.

DR. SERVATIUS: Did Sauckel intervene especially for better nutrition of these workers?

RIECKE: As far as I know, Sauckel appealed several times to my minister on behalf of a better supply of food, whereupon Backe always answered with the counter demand that no additional workers should be brought to Germany. Backe repeatedly suggested that the number of workers be limited and that they be supplied with better food instead.

DR. SERVATIUS: I have no more questions.

DR. STEINBAUER: Witness, in your capacity as State Secretary for Agriculture, did you not also go to Holland at the end of 1944 or the beginning of 1945?

RIECKE: Yes; at that time I was in the Netherlands.

DR. STEINBAUER: On that occasion, was it not the case there that the Wehrmacht offices and the Police raised serious complaints about sabotage of Dutch agriculture, particularly about the responsible government agencies in Holland?

RIECKE: I do not remember a conversation of that kind.

DR. STEINBAUER: Do you know that the Defendant Seyss-Inquart intervened for the reduction of food exports from Holland to Germany?

RIECKE: Yes, on various occasions, and also in that meeting which this document describes.

DR. STEINBAUER: And also, in spite of complaints, that he left the Dutch officials in the Food Department?

RIECKE: Yes, that is the case.

DR. STEINBAUER: That is all.

DR. HANS FLÄCHSNER: (Counsel for Defendant Speer): Mr. President, may I put several questions to the witness?

[Turning to the witness.] Witness, could you give me information about the following questions? Did the inmates of concentration camps who worked in the armament industry get the same supplementary rations for heavy and very heavy labor as the other workers?

RIECKE: During the time when I was charged with these problems, it was decided to give all prisoners, including concentration camp inmates, the same rations as the rest of the population, if they were working. Therefore, they should have received the same rations.

DR. FLÄCHSNER: Was the Defendant Speer, or the Ministry under his direction, competent for the orderly maintenance of the rations in the plants insofar as the latter—the plants—were in charge of the food supply?

RIECKE: No, Speer's Ministry was not competent in these matters. As far as delivery upon demand was concerned, the food offices were competent. The distribution of delivered foodstuffs in the plants, however, was the affair of the camp or plant administrations.

DR. FLÄCHSNER: And one further question: What measures had Speer taken in order to prevent a general food catastrophe which would have affected the millions of foreign workers in Germany in an equal manner?

RIECKE: Beginning in December 1944, Speer purposely subordinated armament tasks to the problem of nutrition with the idea in mind of a change-over to a new regime, a new administration, an occupying power. From this time on, Speer gave food transport priority over armament transport. He saw to it that seed for the spring tillage was distributed with the transportation means at his disposal. Speer emphatically advocated reconstructing food processing plants damaged by air attack even before armament plants. And above all, during that last phase, Speer helped us prevent the senseless destruction of food processing plants, against the instructions issued by Hitler. He did this with complete self-abnegation and without consideration for any possible consequences.

DR. FLÄCHSNER: Thank you.

DR. LATERNSENER: Witness, did you participate in the Western campaign?

RIECKE: Yes.

DR. LATERNSENER: In what capacity?

RIECKE: As commander of a battalion in the field.

DR. LATERNSEER: During the Western campaign, did you receive any dubious orders—I mean to say, orders which were in violation of international law?

RIECKE: I received no such orders.

DR. LATERNSEER: Did you have any reason to believe, or did you establish, that looting was tolerated by higher military authorities?

RIECKE: No. On the contrary, looting was most severely punished.

DR. LATERNSEER: Later you were also in the East, but—as I have heard not as a soldier. Could you look into the operational areas there, as well as the regions governed by the commissions?

RIECKE: Both were open to my observations.

DR. LATERNSEER: What was the treatment of the local population by the German soldiers?

RIECKE: Taken as a whole it can be said that, especially in the Ukraine, the treatment of the civilian population in the army's sector—in the operational area—was better than elsewhere; consideration was shown for the necessities of the civilian administrative sector.

DR. LATERNSEER: And what do you think is the reason for that difference?

RIECKE: I attribute it to a different basic attitude of the soldier who was free of political tendencies and also to the fact that the troops, of course, wanted to have peace and quiet in the rear areas.

THE PRESIDENT: Do the Prosecution want to cross-examine?

MR. DODD: I can be through in 2 minutes, if Your Honor please. *[Turning to the witness.]* Were you a member of the Nazi Party?

RIECKE: Yes.

MR. DODD: When did you join?

RIECKE: In 1925.

MR. DODD: 1925?

RIECKE: Yes.

MR. DODD: You were also a member of the SA?

RIECKE: Yes.

MR. DODD: What rank did you hold in the SA?

RIECKE: My last rank was Gruppenführer of the SA.

MR. DODD: Previously, you were an SA Sturmführer, were you not?

RIECKE: In 1930, yes.

MR. DODD: When did you become an SS Gruppenführer?

RIECKE: In October 1944.

MR. DODD: That is all. I have no other questions.

THE PRESIDENT: Have you any questions to ask in re-examination?

DR. THOMA: No.

THE PRESIDENT: Well, that concludes your case in behalf of the Defendant Rosenberg, does it not?

DR. THOMA: Mr. President, I should like to state that the Document Rosenberg-19, which General Rudenko referred to, was not submitted to the Tribunal as an exhibit by me. Furthermore, I should like to inform the Tribunal that a number of affidavits, which have been approved, have not as yet been received.

THE PRESIDENT: You can mention them later, of course.

DR. THOMA: I should further like to make the request that my document book Number 1 be not accepted in evidence but considered the same as before, that is, as having general probative value according to the decision of 8 March 1946; therefore, not as evidence, not as a matter of proof, but just as argument. I assume that it had been approved in this sense previously, and that it was only rejected as evidence.

THE PRESIDENT: I anticipate that we shall not interfere in your argument.

MR. COUNSELLOR RAGINSKY: Mr. President, I should like to give an explanation—that is, about the fact that Document Rosenberg-19 represents a letter from Riecke addressed to Rosenberg, dated 12 March 1943. This document was submitted by the defendant's counsel, Dr. Thoma. It is found in the Rosenberg Document Book Number 2, Page 42, and has been translated into all four languages. It is in the possession of all the prosecutors and is also in the document book which has been submitted to the Tribunal, and the Tribunal has ruled to accept this document from the Defense.

THE PRESIDENT: General Raginsky, the position is this: That a document does not go into evidence unless it is offered in evidence. Dr. Thoma has not offered this document in evidence, and I understand that the Soviet Prosecution has not offered it in evidence. If you want to offer it in evidence, and the document is an authentic document—which I suppose it is—you can offer it in evidence.

MR. COUNSELLOR RAGINSKY: We did not offer it as evidence, only because we thought that it was already contained in the document book presented by the Defense; and, therefore, we had no

need to present it again. If the defendant's counsel, Thoma, refuses to present it, then we shall do so.

THE PRESIDENT: You are wrong in assuming this. You see, documents do not go into evidence unless they are offered in evidence. The fact that they are in the books does not mean that they are in evidence; therefore, if you want to offer it in evidence, you must do so.

MR. COUNSELLOR RAGINSKY: In that case, Mr. President, we are going to offer it in evidence now.

THE PRESIDENT: Very well; you will give it a USSR number.

MR. COUNSELLOR RAGINSKY: Yes, we are going to give it a USSR exhibit number and, with your permission, will offer it in evidence tomorrow.

THE PRESIDENT: Very well.

MR. COUNSELLOR RAGINSKY: Thank you.

THE PRESIDENT: Now, we will proceed to deal with the supplementary applications. The witness can retire.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases, the first application is that of Dr. Seidl's with regard to two witnesses. First of all witness Hilger, who was previously granted as a witness for the Defendant Von Ribbentrop but withdrawn by counsel on the 2nd of April. I believe that the witness is in the United States and that there is a report that he is too ill to travel. But apart from this, My Lord, the purpose of the witness is to give evidence as to the discussions and treaty negotiations which took place in the Kremlin at Moscow before the German-Soviet agreement of the 23rd of August 1939; and the allegation states the conclusion of the alleged secret agreement dealt with in the affidavit of the witness Gaus.

My Lord, the other application is for a witness Von Weizsäcker, who is going to deal with the same point.

The Prosecution, of course, loyally accept the decision of the Tribunal on the admissibility of the Gaus affidavit, but they respectfully submit that that does not affect this point. What is desired is to call witnesses as to the course of the negotiations before these treaties—before an agreement was arrived at in respect to these treaties—and that is a point which we have had several times; and, of course, while all circumstances have a slight difference, the Tribunal have—as far as I know—ruled universally up to now that they will not go into antecedent negotiations which have resulted in agreements.

There is also the position that, of course, Dr. Seidl has put in the Gaus affidavit, and he has had his opportunity to examine the

Defendant Von Ribbentrop; and the Prosecution respectfully submit that to call two secondary witnesses—without any disrespect to their position in the German Foreign Office, they are witnesses of a secondary importance compared with the Defendant Von Ribbentrop—to discuss these negotiations seems to the Prosecution to be going into irrelevant matter and entirely unnecessary for the purposes of this case.

I confess I do not myself appreciate any special relevance that these witnesses could have to the case of Hess, but I do not put it so strongly on that ground; I put it on the ground which I have just outlined to the Tribunal.

With regard to the third application of Dr. Seidl, I am not quite sure whether he means that he wants the Prosecution to provide him with an original or certified copy of the secret agreement, or whether he desires to tender a copy himself. But with regard to that, again the Prosecution take the line that that point—which, after all, is only one tiny corner of one aspect of the case—is sufficiently covered by the evidence which has already been brought out before the Tribunal from the affidavit of Ambassador Gaus and the evidence of the Defendant Ribbentrop.

That is the position of the Prosecution with regard to that.

THE PRESIDENT: Yes, Dr. Seidl?

DR. SEIDL: Mr. President, the affidavit of the Ambassador Dr. Gaus, which has been accepted by the Tribunal as Exhibit Hess-16, describes only a part of the negotiations. Ambassador Dr. Gaus was not present at the negotiations which preceded the conclusion of the pacts. I have, therefore, made the additional application to call Embassy Counsellor Hilger as a witness after his having already been approved as a witness for the Defendant Von Ribbentrop.

I have, furthermore, requested that the Tribunal procure the text of that secret supplementary appendix. I have to admit, however, that this request no longer has the importance it had at the time it was made. In the meantime we have received a copy of that secret supplementary appendix.

Furthermore, I have a copy of the secret appendix to the German-Soviet border pact of 28 September 1939; and I have an affidavit by Ambassador Dr. Gaus of 1 April of this year certifying that these copies are identical with the text of the secret agreements drafted on 23 August and 28 September 1939.

THE PRESIDENT: Sir David, have you any objection to that document being produced for the consideration of the Tribunal?

SIR DAVID MAXWELL-FYFE: Not at all, My Lord. As I say, the Tribunal have considered our objection on relevance, and we

have lost on it; and, therefore, it is not really open to me to argue any question of the relevance of the document in view of the decision of the Tribunal.

The only point that I make is that if Dr. Seidl produces an alleged copy of the treaty, supported by an affidavit of Ambassador Gaus, then it immensely strengthens my argument, I submit, against him being allowed to call the witness.

COL. POKROVSKY: The Soviet Prosecution, on the question which is now being discussed by the Tribunal, have submitted today a document to the General Secretariat of the International Military Tribunal. If this document is already in your possession, then I need not talk about our position here; but, if you find it necessary, Your Honors, I am going to set it forth here. We object on the ground of considerations, which are set forth in this document signed by General Rudenko.

THE PRESIDENT: Are you presenting an argument or a document of some sort?

COL. POKROVSKY: No, I am not going to argue about it nor return to this question if you have this document.

THE PRESIDENT: You misunderstood me. You mentioned a document which you asserted was in the possession of the Tribunal. I am not aware that we have any document from the Soviet Prosecution. It may be that it has been received; and, if so, we will consider it of course.

What I wanted to know is whether it was an argument or an original document of some sort.

COL. POKROVSKY: The document deals with the official answer of the Soviet Prosecution on the question as to whether we consider it necessary to grant the request of Dr. Seidl regarding a group of questions connected with the German-Soviet Pact of 1939.

THE PRESIDENT: We will consider the document.

COL. POKROVSKY: You think it would be possible to be content with just the document which is in your possession now?

THE PRESIDENT: Well, certainly—unless you wish to say anything. We will consider the document.

COL. POKROVSKY: There is going to be no further information regarding it. Our position has been defined in detail in this document signed by General Rudenko; and, if you have this document before you now, I have nothing more to add regarding it.

DR. SEIDL: Mr. President, on 13 April I made a written motion to be permitted to submit a documentary supplement as Exhibit Hess-17. I submitted six copies of this document with the request to have it translated. The following documents are included:



1) The German-Soviet Non-aggression Pact of 23 August 1939, which was already submitted by the Prosecution under Exhibit GB-145; 2) the related supplementary protocol of the same date; 3) the German-Soviet Friendship and Border Pact of 28 September 1939; 4) the secret supplementary protocol of the same date which is related to it; and 5) the second affidavit by Ambassador Dr. Gaus, mentioned before.

Furthermore, on 15 April I made the motion to call the witness Dr. Gaus—who is in Nuremberg—here before this Court if the Tribunal do not consider the affidavit sufficient. I ask the Tribunal to make its decision about these motions.

THE PRESIDENT: The Tribunal will consider the matter.

Now, with reference to Von Neurath.

SIR DAVID MAXWELL-FYFE: My Lord, this is an application for a witness Dieckhoff, in regard to whom interrogatories have already been granted. As I understand, the reason is that the witness Tschirschky has been found to have retired from the German Foreign Office some 18 months earlier than was thought. Baron Von Lüdinghausen has suggested that, to balance the calling of Dieckhoff as a witness, he will give up the calling of the witness Zimmermann and have an affidavit or interrogatory instead. My Lord, that seems to the Prosecution a very reasonable suggestion, and we have no objection.

THE PRESIDENT: You mean, no objection to Dieckhoff as a witness and Zimmermann for an affidavit or interrogatories?

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

THE PRESIDENT: Very well.

SIR DAVID MAXWELL-FYFE: My Lord, that is all with regard to the Defendant Von Neurath.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: Then, with regard to the Defendant Schacht, it is only the petition of the witness Huelse; and the Prosecution do not really mind whether Dr. Dix calls him or puts in an affidavit. I think that it is only a question of whether the witness will be available to come here from Hamburg; and, if he is available, we have no objection to him being called as a witness.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: Then, My Lord, the next one on the list is an application on behalf of the Defendant Sauckel: Withdrawal of interrogatories for Mende granted on 23 March, as the prospective witness is not located; and interrogatories for Marenbach in place of Mende, who can give the same testimony. Dr. Servatius

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believes that Marenbach is located at the Garmisch internment camp. The Prosecution have no objection to that.

My Lord, I think there was a formal one from Dr. Thoma with regard to the use of the sworn statement by Professor Denker, but there is no objection to that.

THE PRESIDENT: We have already allowed that.

SIR DAVID MAXWELL-FYFE: You have already allowed that; this is only the formal application.

THE PRESIDENT: Yes, very well. Then we will consider those matters. There are a number of documents for the production of which the Defendant Sauckel's counsel is applying.

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: It has been suggested to us that counsel for the Defendant Sauckel and Counsel for the Prosecution could help us over that matter.

SIR DAVID MAXWELL-FYFE: My Lord, my friend, Mr. Roberts, has been dealing with Dr. Servatius upon this point; so, perhaps he could help the Tribunal.

THE PRESIDENT: Mr. Roberts, will it take a long time for that or not?

MR. ROBERTS: My Lord, I do not think so. The Tribunal, I understand . . .

COL. POKROVSKY: I should like to inform the Tribunal that the Soviet Prosecution did not receive any documents which the British Prosecutor has just mentioned, and we ask that these documents not be discussed until the moment when we shall have the opportunity to get acquainted with them.

THE PRESIDENT: I understand that these documents have not been translated yet. The question really is the preliminary one of which documents should be translated, and we were only going through the documents in order to see which documents were sufficiently relevant to be translated; so that it would not be . . .

COL. POKROVSKY: Very well.

MR. ROBERTS: My Lord, the Tribunal—I understand—have made a preliminary order of just striking out the documents which Dr. Servatius and I agree should not be presented. My Lord, that leaves a very large number of documents, of which I think the Tribunal has a list. My Lord, the first 68 documents—or rather from documents 6 to 68—are regulations dealing with the conditions of the employment of labor in Germany. My Lord, I have seen Dr. Servatius' proposed document book, and he has marked certain passages

which he would desire to read, and which would have to be translated, My Lord; and that does cut down the bulk of the documents very considerably.

THE PRESIDENT: Well, of course, we have not read all these documents yet, and they are not translated. Can you indicate to us whether you have any objection to them being translated?

MR. ROBERTS: My Lord, I do not think I could object to those first documents from 6 to 68—the passages marked “being translated,” because from their description they appear to be relevant.

THE PRESIDENT: Yes, 6 to 68.

MR. ROBERTS: Yes, My Lord.

THE PRESIDENT: You mean the passages which are actually marked?

MR. ROBERTS: Yes, My Lord.

THE PRESIDENT: Then will you go on?

MR. ROBERTS: Yes, My Lord.

THE PRESIDENT: 69 to 79 he has already struck out.

MR. ROBERTS: Yes, My Lord. My Lord, 80 and 81 I object to. They are documents making allegations of breach of the Hague Regulations by the Soviet nation. My Lord, I submit that that is not relevant.

THE PRESIDENT: The allegations of illegal acts by the Soviet Government with reference to individuals?

MR. ROBERTS: Yes, My Lord. My Lord, I submit that that could not be relevant at all.

THE PRESIDENT: Yes, and 82 to 89; you do not object to these?

MR. ROBERTS: My Lord, I do not object to these—the passages as marked.

THE PRESIDENT: Yes.

MR. ROBERTS: Dr. Servatius promised, as far as he could, to cut down the passages which were going to be marked.

My Lord, 90 and 91 I object to. Dr. Servatius wants to put in, under the description of documents, a large number of affidavits, the number of which I think is not yet ascertained—affidavits by various persons as to the conditions of labor and the conditions under which foreign workers were employed. My Lord, the Defendant Sauckel has been allowed a certain number of witnesses and also affidavits or interrogatories from other people. My Lord, I submit that this application under 90 and 91—two files of affidavits—is not really an application for documents at all, and it should be disallowed.

My Lord, Number 92 . . .

THE PRESIDENT: Number 92 he has struck out.

MR. ROBERTS: 92 has been struck out.

My Lord, Number 93 is, in fact, a book which was referred to by the French prosecutor; and, therefore, of course, Dr. Servatius would be entitled to refer to it in his case.

THE PRESIDENT: Are the passages marked in that or not?

MR. ROBERTS: Well, he has not marked any yet. There are some pictures, My Lord, of . . .

THE PRESIDENT: He only wants the pictures?

MR. ROBERTS: I think so, My Lord, showing the cherubic happiness of the foreign workers in Germany.

THE PRESIDENT: Yes.

MR. ROBERTS: My Lord, 94 is an affidavit of Sauckel's son. It is only required, I understand, if one of three other witnesses who have been allowed is not available. My Lord, it is to deal with the allegation that Sauckel ordered the evacuation of Buchenwald; and, My Lord, I cannot object to this very short affidavit, if Dr. Servatius cannot produce one of the three witnesses who have been allowed to him.

My Lord, 95 is Sauckel's speeches, and Dr. Servatius again has promised to cut down the passages which he has marked. It is difficult to object to that in view of the allegation of conspiracy.

THE PRESIDENT: Yes.

MR. ROBERTS: My Lord, 96 and 97 are books in which there are very short extracts which have been marked, and, again, as it deals with a relevant period of the alleged conspiracy, My Lord, I do not see how I can object to that.

THE PRESIDENT: In the same category, yes. Does that meet with your views, Dr. Servatius?

DR. SERVATIUS: Yes, I discussed the matter with a representative of the Prosecution and that represents in principle the result. I would like to add, however, something with reference to a few documents—namely, Documents 80 and 81. One is the photostat copy of a deportation order in the city of Oels, the other an affidavit concerning forced labor in Saaz. I need the first document in order to prove that the Hague Regulations for Land Warfare was obsolete—that is to say, that before the armistice, while fighting was still going on, the population of the Eastern German provinces was sent to Russia for forced labor. I supplemented the motion orally at that time, because I considered the proof for the deportation of a large part of the population for forced labor, obtained by questioning the

mayors of cities from Upper Silesia to East Prussia, as insufficient. I believe that this is of great importance for the defense of my client, as it proves that the Hague Regulations for Land Warfare was considered non-existent in the East.

Document 81 deals with the state of affairs after the armistice—but which appears as only a continuation of what previously occurred in the Eastern territories—and confirms the fact that, under the occupation of the Soviet Army, such conditions generally continued to exist—namely, the recruitment of the population for work not in the sense of the Hague Convention for the repair of local roads, for instance, but rather for the purpose of working in industry and for activities outside the framework of the Hague Convention and for work outside the country. I do not believe that I should be refused this evidence.

Now as to Documents Number 90 and 91, their contents have already been presented. They are two folders with a collection of affidavits. The attempt is made to bring evidence in refutation of a government investigation such as we have met up with here. We have received reports from the Soviet and French Prosecution; we have received reports from Czechs; all of which constitute a huge quantity of material of mosaic-like patterns that can only be dealt with in this manner.

I once before explained that I do not have a government at my disposal which could prepare such a report, and so I suggest bringing a collection of affidavits. Now I do not intend to read every one of these affidavits here. My motion is that the Court appoint a deputy who would study that folder and prepare a brief report about it for presentation to the Tribunal. A similar problem will arise later when questions concerning the political organizations are dealt with—namely, the problem as to how these immense quantities of material can be presented to the Tribunal.

If I bring one witness, one witness only, it will be said, "Well, one witness cannot, of course, cover the entire ground." On the other hand, I cannot have a hundred or more witnesses. So this would be a middle way: That a person appointed by the Tribunal study these affidavits and then give a report. That is the content of these two folders.

**THE PRESIDENT:** How many affidavits have you in mind or have you obtained?

**DR. SERVATIUS:** So far I have received very little. It proves that those who could give information are very reticent, because they are afraid that they might be prosecuted on that account. I hope, however, to be able to make a selection of reasonable statements, which I believe will amount to about 20 or 30 affidavits. I would limit it to that, because I do not care to take up the Court's

time with unnecessary work dealing with these affidavits. Judging from the present state of my collection, I may even have to consider withdrawing my motion altogether, because I have to admit myself that the amount of material reaching me is very small; but I ask to be given another chance, and at the appropriate moment I shall present the case to the Court again.

THE PRESIDENT: Yes. Is that all you want to say?

DR. SERVATIUS: There is still Document Number 93, the illustrated booklet, *Europe Works in Germany*. I should like...

THE PRESIDENT: Did the Prosecution object?

DR. SERVATIUS: No, the Prosecution does not object. I should like to project some pictures on the screen for the purpose of showing particularly under what conditions these people from the East arrived and what their condition was later, insofar as it can be shown from a propaganda pamphlet.

THE PRESIDENT: Yes, thank you.

MR. ROBERTS: There was one other point which I ought to mention. Perhaps Dr. Servatius would be good enough to listen.

My Lord, Dr. Servatius has applied in writing to the Tribunal, by letter dated 5 March 1946, for all medical reports of Dr. Jäger, who was a chief camp doctor at Krupp-Essen; secondly, all monthly reports of a man called Groene, who was a colleague of Dr. Jäger; thirdly, all minutes of monthly conferences which the chief camp leader held with his subordinate camp leaders at Krupps.

My Lord the position is this: That the French put in—oh, I think our American colleagues put in—an affidavit of Dr. Jäger, and Dr. Jäger himself has been granted as a witness for Sauckel, and so he will be seen in the witness box.

My Lord, the Prosecution have no objection to Dr. Jäger being asked, I suppose, to bring his reports with him if they are available. We do not have them, and I do not think we know where they are.

THE PRESIDENT: But the witness is being called.

DR. SERVATIUS: I have received a portion of these documents already, and I assume that the rest may also reach me. I believe the material which I have now is sufficient for my purposes so that the Prosecution need not take further pains.

THE PRESIDENT: You mean we need make no order?

DR. SERVATIUS: It is not necessary.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal adjourned until 18 April 1946 at 1000 hours.]