



School of Law
UNIVERSITY OF GEORGIA

Prepare.
Connect.
Lead.

Digital Commons @ University of
Georgia School of Law

Trial 4 - Pohl Case

The Gen. Eugene Phillips Nuremberg Trials
Collection

11-3-1947

Opinion and Judgment of the Tribunal

Military Tribunal No. II

Repository Citation

Military Tribunal No. II, "Opinion and Judgment of the Tribunal" (1947). *Trial 4 - Pohl Case*. 3.
<https://digitalcommons.law.uga.edu/nmt4/3>

This Article is brought to you for free and open access by the The Gen. Eugene Phillips Nuremberg Trials Collection at Digital Commons @ University of Georgia School of Law. It has been accepted for inclusion in Trial 4 - Pohl Case by an authorized administrator of Digital Commons @ University of Georgia School of Law. [Please share how you have benefited from this access](#) For more information, please contact tstriepe@uga.edu.

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL II
HELD NOVEMBER 3, 1947

THE UNITED STATES OF AMERICA :
 :
 - vs - :
 :
 :
 OSWALD POHL, AUGUST FRANK, GEORG LOERNER, :
 HEINZ KARL FANSLAU, HANS LOERNER, JOSEPH : OPINION AND JUDGMENT
 VOGT, ERVIN TSCHENTSCHER, RUDOLF SCHEIDE, :
 MAX KIEFER, FRANZ EIRENSCHMALZ, KARL : Case No. 4
 SOMMER, HERMANN POOK, HANS BAIER, HANS :
 HOHBERG, LEO VOLK, KARL MUMMENTHEY, HANS :
 BOBERMIN, AND HORST KLEIN, :

Defendants.

United States Military Tribunal II was established on the 14th day of December 1946 by General Order No. 85 of the United States Military Governor for Germany. It was the second of several Military Tribunals constituted in the United States Zone of Occupation pursuant to Military Government Ordinance No. 7, for the trial of offenses defined as crimes by Law No. 10 of the Control Council for Germany.

Under the Order which established the Tribunal and designated the undersigned as members thereof, Military Tribunal II was ordered to convene at the Palace of Justice, Nurnberg, Germany, and to hear and determine such cases as might be filed by the Chief of Counsel for War Crimes.

Telford Taylor, Brigadier General, U. S. Army, Chief of Counsel for War Crimes, on the 13th day of January, 1947, filed an indictment against the defendants herein named, in the Office of the Secretary General of Military Tribunals.

A copy of said indictment in the German language was served on each defendant on the 13th day of January 1947, except for the defendant Georg Loerner, who was served on the 14th day of

January 1947. More than thirty days after said indictment was served on each defendant, Military Tribunal II arraigned the defendants in the Palace of Justice, Nurnberg, Germany, on the 10th day of March, 1947. Upon arraignment, each defendant entered a plea of "Not Guilty" to all the charges preferred against him. Prior to the arraignment, each defendant was assigned German counsel of his own selection and each defendant was represented by his counsel during the arraignment.

On April 8, 1947, the prosecution began its presentation of evidence. At the conclusion of the prosecution's case in chief the defendants began the presentation of their evidence. The submission of evidence and the arguments of counsel were concluded on the 20th day of September, 1947. The personal statements of all of the defendants were heard on September 22, 1947.

During the trial of the case, the Tribunal sat for 101 sessions, (on 101 different dates, including date of arraignment; also, including a one-half day joint session with all Tribunals in bank.)

During the trial the prosecution offered twenty-one witnesses, the Tribunal itself called one witness, and the defendants offered forty-five witnesses, including the eighteen defendants themselves, a total of sixty-seven witnesses.

In addition, the prosecution put in evidence as exhibits, a total of 742 documents; the defendants put in evidence as exhibits a total of 614 documents, making a grand total of 1356 documents received in evidence. The entire record of the case consists of more than 9,000 pages.

Copies of all exhibits offered in evidence by the prosecution in its case in chief were furnished in the German language to the defendants before the same were offered in evidence.

During the entire proceedings each defendant was present in

Court, except when a defendant was absent for a short time upon his own motion, owing to illness, or other reasons.

Counsel for the defendants made numerous applications to the Tribunal for the purpose of procuring the personal attendance of persons who had made affidavits on behalf of the prosecution. If at all possible, the Tribunal granted such applications and procured the personal attendance of such persons in order that they could be interrogated or cross-examined by defense counsel.

The trial was conducted generally along the lines usually followed in the trial courts of the various States of the United States, except as to the rules of evidence. In compliance with the provisions of Article VII of Ordinance No. 7, great latitude in presenting evidence was allowed prosecution and defense counsel, even to the extent at times of receiving in evidence certain matters of but scant probative value.

The trial was conducted in English and German with an adequate sound system for conveying either language to all participants and listeners. All proceedings on the trial were reduced to writing in English and German, and an electrical recording of all proceedings was also made.

The tribunal was most diligent in its efforts to allow each defendant to present his defense completely, in accordance with the spirit and intent of Military Government Ordinance No. 7. Counsel for each defendant was permitted to cross-examine witnesses of the prosecution and other defense witnesses and to offer in evidence all matters deemed of probative value.

THE JURISDICTION OF THE TRIBUNAL

The jurisdiction of Military Tribunal II is determined by Law No. 10 of the Control Council for Germany. The pertinent parts of this Law with which we are concerned provide as follows:

Article II

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

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

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

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

"2. Any person without regard to nationality or capacity in which he acted, is deemed to have committed a crime as defined in ... this article, if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c)

took a consenting part therein or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime.."

The indictment in this case contains four counts and is filed pursuant to these provisions.

Count I - The Common Design or Conspiracy

The first count of the indictment charges that the defendants, between January 1933 and April 1945, acting pursuant to a common design, unlawfully, wilfully, and knowingly did conspire and agree together, and with each other, and with divers other persons, to commit war crimes and crimes against humanity as defined in Control Council Law No. 10, Article II.

During the trial each of the defendants challenged this count of the indictment, and moved that the same be quashed and stricken from the indictment. The defendants alleged in their motions that under the basic law the Tribunal did not have jurisdiction to try the charge of conspiracy as a separate substantive offense. The motion to quash was argued by counsel for the prosecution and defense and thereafter the Tribunal granted the motion. In order that this judgment may be complete, the ruling of the Tribunal is incorporated in this judgment:

"It is the ruling of this Tribunal that neither the charter of the International Military Tribunal nor Control Council Law No. 10 has defined conspiracy to commit a war crime or crime against humanity as a separate substantive crime; therefore, this Tribunal has no jurisdiction to try any defendant upon a charge of conspiracy considered as a separate substantive offense.

"Count I of the indictment, in addition to the separate charge of conspiracy, also alleges unlawful participation in the formulation and execution of plans to commit war crimes and crimes against humanity which actually involved the commission of such crimes. We, therefore, cannot properly strike the whole of Count I from the indictment, but, insofar as Count I charges the commission of the alleged crime of conspiracy as a separate substantive offense, distinct from any war crime or crime against humanity, the Tribunal will disregard that charge.

"This ruling must not be construed as limiting the force or effect of Article 2, paragraph 2 of Control Council Law No. 10, or as denying to either prosecution or defense the right to offer in evidence any facts or circumstances occurring either before or after September, 1939, if such facts or circumstances tend to prove or to disprove the commission by any defendant of war crimes or crimes against humanity as defined in Control Council Law No. 10."

Inasmuch as the offenses charged in the unstricken part of Count I are repeated in substance in Counts II and III, the entire first count may for purposes of this judgment be disregarded without detracting from the contents of the indictment as a whole.

Counts II and III - War Crimes and Crimes Against Humanity

The second and third counts of the indictment charge the commission of war crimes and crimes against humanity. The counts are identical in content, except that in Count II the acts which

are made the basis for the charges are alleged to have been "committed against the civilian populations of occupied territories and prisoners of war", whereas in Count III the criminal acts are alleged to have been "committed against German civilians and nationals of other countries." With this distinction observed, both counts will be treated as one and discussed together.

Counts II and III allege, in substance, that between September 1939 and April 1945 all of the defendants herein named "were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses, including but not limited to plunder of public property, murder, torture, illegal imprisonment and enslavement, and deportation to slave labor of, and brutalities, atrocities and other inhumane and criminal acts against thousands of persons."

The indictment further avers that all of the defendants were associated with the Main Economic and Administrative Department (Wirtschafts und Verwaltungshauptamt, commonly known as the "WVHA") which was one of the twelve main departments of the SS.

The indictment more specifically charges the defendants with war crimes and crimes against humanity, as follows:

The defendant Oswald Pohl was the head of the WVHA and the defendants August Frank and Georg Loerner were his deputies. The WVHA was divided into Amtsgruppen (office groups or divisions), which were inter-related in their operations, purposes, and functions.

Amtsgruppe A, among other things, was responsible for financial matters of the SS, including those relating to its concentration camps. This Amtsgruppe was sub-divided into five offices or Aemter, which were charged with responsibility for certain parts

of the entire financial administration. The defendants Frank and Fanslau were, successively, heads of Amtsgruppe A. The defendants Hans Loerner, Frank, Vogt, and Fanslau were heads of offices or Aemter within this Amtsgruppe A.

Amtsgruppe B, among other things, was responsible for the supply of food and clothing for inmates of the concentration camps, and of food, uniforms, equipment, billets, and camp quarters for the members of the SS. It was sub-divided into five offices or Aemter. The defendant Georg Loerner was the Chief of Amtsgruppe B, and the defendant Techentscher was his deputy and chief of one of the offices or Aemter within this Amtsgruppe B. The defendant Scheide was head of Amt B-V within Amtsgruppe B.

Amtsgruppe C, among other things, was charged with the construction and maintenance of houses, buildings, and structures of the SS, the German Police, and of the concentration camps and prisoner of war camps. It was sub-divided into six offices or Aemter. The defendants Kiefer and Hirschmalz were heads of Aemter or offices within this Amtsgruppe C.

Amtsgruppe D, which prior to March 1942 was known as the Inspectorate of Concentration Camps, was responsible, among other things, for the administration of the concentration camps and of the concentration camp inmates. It was responsible for the food, clothing, housing, sanitation, and medical care of the concentration camp inmates, and of the order, discipline, and regulation of the lives of the inmates. It was charged with the supply of the forced services and labor of the concentration camp inmates to public and private employers throughout Germany and the occupied countries. It was sub-divided into six offices or Aemter. The defendant Sommer was the deputy chief of one of the offices or Aemter of Amtsgruppe D, responsible for the supply of the services

and labor of concentration camp inmates. The defendant Pook was in charge of matters relating to dentistry affecting the concentration camp inmates.

Amtsgruppe W, among other things, was responsible for the operation and maintenance of various industrial, manufacturing, and service enterprises throughout Germany and the occupied countries. In the operation of the enterprises under its control, this Amtsgruppe employed many concentration camp inmates. It was sub-divided into eight offices or Aemter. The defendant Pohl was the head of Amtsgruppe W, the defendant Georg Loerner was his deputy, and the defendants Hohberg and Baier were his executive assistants. The defendant Volk was personal adviser on the staff of Oswald Pohl and head of the legal section of the Executive Office of Amtsgruppe W, and the defendants Mummmenthey, Bobermin, and Klein were heads of offices or Aemter within this Amtsgruppe.

The indictment then goes on to charge that these defendants, acting concertedly within the framework of WVHA and in pursuance of a common criminal design, perpetrated and aided and abetted in the perpetration of atrocities and offenses against persons and property, including plunder of public and private property, murder, extermination, enslavement, deportation, unlawful imprisonment, torture, persecutions on political, racial and religious grounds, ill-treatment of, and other inhumane and unlawful acts against thousands of persons, including German civilians, nationals of other countries, and prisoners of war. The indictment then relates in detail the means and methods by which the above criminal acts were accomplished.

Counts II and III of the indictment conclude with the averment that these crimes and atrocities "constitute violations of international conventions..., the laws and customs of war, the general prin-

principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10."

Count IV - - - Membership in Criminal Organization

The fourth count of the indictment avers that all of the defendants herein except defendant Hohberg were members subsequent to September 1, 1939, of the SS, declared to be criminal by the International Military Tribunal and Paragraph 1 (d) Article II of Control Council Law No. 10.

The law, as pronounced by the International Military Tribunal with reference to membership in an organization declared criminal, is as follows:

"In dealing with the SS the Tribunal includes all persons who had been officially accepted as members of the SS including the members of the Allgemeine SS, members of the Waffen-SS, members of the SS Totenkopf Verbände, and the members of any of the different police forces who were members of the SS. The Tribunal does not include the so-called riding units...

"The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes, excluding, however, those who were drafted into membership by the State in such a

way as to give them no choice in the matter, and who had committed no such crimes. The basis of this finding is the participation of the organization in war crimes and crimes against humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to belong to the organizations enumerated in the preceding paragraph prior to 1 September 1939."

Under the American concept of liberty, and under the Anglo-Saxon system of jurisprudence, every defendant in a criminal case is presumed to be innocent until the prosecution by competent and credible proof has shown his guilt to the exclusion of every reasonable doubt. This presumption of innocence follows him throughout the trial until such degree of proof has been aduced. Beyond a reasonable doubt does not mean beyond a vain, imaginary or fanciful doubt, but means that the defendant's guilt must be fully proved to a moral certainty, before he is condemned. Stated differently, it is such a doubt as, after full consideration of all the evidence, would leave an unbiased, reflective person charged with the responsibility of decision, in such a state of mind that he could not say that he felt an abiding conviction amounting to a moral certainty of the truth of the charge.

If any defendant is to be found guilty under Counts II or III of the indictment, it must only be because the evidence in the case has clearly shown beyond a reasonable doubt that such defendant participated as a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving the commission of at least some of the war crimes and crimes against humanity with which the defendants are charged

in the indictment. Only under such circumstances may he be convicted.

If any defendant is to be found guilty under Count IV of the indictment, it must be because the evidence has shown beyond a reasonable doubt that such defendant was a member of an organization or group subsequent to September 1, 1939, declared to be criminal by the International Military Tribunal, as contained in the judgment of said Tribunal.

The defendants are charged in the indictment as officials of the Wirtschafts und Verwaltungshauptamt (commonly called the WVHA) of the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS). The whole sordid history of the SS and its criminal activities has been told in detail in the judgment of the International Military Tribunal (pp. 268-273, Official Edition), and need not be repeated here. In this case, the Tribunal is concerned only with the members of the WVHA, or Economic Administration Main Office, and its predecessors, the Hauptamt Verwaltung und Wirtschaft, or Administrative and Economic Main Office, and the Hauptamt Haushalt und Bauten, or Budget and Building Main Office.

Early in 1942, the WVHA was organized under Himmler's order to coordinate and consolidate the administrative work of the SS. The organization of the former Administrative Department and Department of Budget and Building of the SS was taken over intact, and, in addition, another main office of the SS was incorporated into the WVHA, namely, the Inspekteur der Konzentrationslager, or Inspector of Concentration Camps. Of this revamped organization, the defendant Pohl was continued as Chief and was in supreme command. The WVHA was divided into five Amtsgruppen, or departments, namely:

Amtsgruppe A - Budget, Law and Administration

Amtsgruppe B - Supply, Billeting and Equipment

Amtsgruppe C - Works and Buildings

Amtsgruppe D - Concentration Camps

Amtsgruppe W - Economic Enterprises

Each amtsgruppe was headed by a Chief and was, in turn, divided into a number of offices. For example, Amtsgruppe A was subdivided into Amt A I to Amt A V, Amtsgruppe B was likewise subdivided, while Amtsgruppe W was subdivided into Amts W I to Amt W VIII. Each amt or office was charged with some specialized phase of the general field covered by its amtsgruppe.

The WVHA, as one of the twelve main offices of the SS Central Organization, was charged with the administrative needs of the entire SS, including supplies of every kind, billeting, transportation, and also the administration of the entire system of concentration camps. This did not involve the commitment to or release of inmates from concentration camps, but it did involve the maintenance and administration of the camps and the use of the inmates as a source of forced labor.

In addition to its functions as an administrative agency, WVHA managed and controlled a vast number of economic enterprises which were either owned or controlled by the SS. These enterprises embraced an extensive industrial empire, extending from Holland to Poland and Hungary, and were operated almost entirely by the use of concentration camp labor. The operation and administration of these enterprises was the task of Amtsgruppe W, of which defendant Pohl was the Chief and defendant Georg Loerner the Deputy Chief. Ancillary to Amtsgruppe W was an amorphous organization called Staff W, headed by the Chief of Staff W, or Chief W. This

staff exercised general administrative supervision of the W industries, negotiated for and procured new enterprises, arranged financing, floated loans; negotiated financial matters with the Reich Minister of Finance, and in other ways performed broad coordinating functions within the framework of the SS industries. The Chief of Staff W was at one time the defendant Hohberg and later the defendants Volk and Baier.

More than 25 of the SS industries were controlled, through stock ownership, by a parent holding company, known as Deutsche Wirtschaftsbetriebe, or DWB, of which defendant Pohl was the chief officer. These industries included a wide range of projects: Stone quarries, brick manufacturing plants, cement mills, pharmaceutical factories, real estate, housing, building materials, book printing and binding, porcelain and ceramics, mineral water and fruit juices, furniture, foodstuffs, textiles and leather, etc. For the purposes of this case, four of these industries are of particular significance:

- (1) The Deutsche Erd-und-Steinwerke, known as DEST, which operated five granite quarries, six brick and tile plants and a stone-cutting plant.
- (2) The Klinker Zement, manufacturing brick and cinder block, fireproof products, ceramics, lime and chalk. This company had large subsidiaries at Golleschau, Prague, Lemberg and Bialystock.
- (3) Ostindustrie, or OSTI, organized in March 1943 and dissolved a year later, which operated and later liquidated all the confiscated Jewish industries in the Government General, including foundries, textile plants, quarries, glass works, and others. Enforced Jewish labor was employed in these enterprises.
- (4) The Deutsche Ausruestungswerke, or DAW, the German Equipment Works, which operated various industries in seven concentration camps, using forced inmate labor.

The freedom of man from enslavement by his fellow men is one of the fundamental concepts of civilization. Any program which violates that concept, whether prompted by a false feeling

of superiority or arising from desperate economic needs, is intolerable and criminal. We have been told many times, "Germany was engaged in total war. Our national life was endangered. Everyone had to work." This cannot mean that everyone must work for Germany in her waging of criminal aggressive war. It certainly cannot mean that Russian and Polish and Dutch and Norwegian non-combatants, including women and children, could be forced to work as slaves in the manufacture of war material to be used against their own countrymen and to destroy their own homelands. It certainly cannot mean, in spite of treaties and all rules of civilized warfare (if warfare can ever be said to be civilized), that prisoners taken in battle can be reduced to the status of slaves. Even Germany prior to 1939 had repudiated any such fallacious position. And yet, under the hypnotism of the Nazi ideology, the German people readily became complaisant to this strange and inhuman system. Under the spell of National Socialism, these defendants today are only mildly conscious of any guilt in the kidnapping and enslavement of millions of civilians. The concept that slavery is criminal per se does not enter into their thinking. Their attitude may be summarized thus: "We fed and clothed and housed these prisoners as best we could. If they were hungry or cold, so were the Germans. If they had to work long hours under trying conditions, so did the Germans. What is wrong in that?" When it is explained that the Germans were free men working in their own homeland for their own country, they fail to see any distinction. The electrically charged wire, the armed guards, the vicious dogs, the sentinel towers - all these are blandly explained by saying, "Why, of course. Otherwise the inmates would have run away." They simply cannot realize that the most precious

work in any language is "liberty". The Germans had become so accustomed to regimentation and government by decree that the protection of individual human rights by law was a forgotten idea. The fact that the people of the eastern territories were torn from their homes, families divided, property confiscated, and the able-bodied herded into concentration camps, to work without pay for the perpetrators of these outrages - all this was complaisantly justified because a swollen tyrant in Berlin had scribbled "H.H." on a piece of paper. And these are the men who now keep repeating, "Nulla poena sine lege."

This Tribunal, in its judgment in the case of United States vs. Erhard Milch, had occasion to say:

"The German nation, before the ascendancy of the NSDAP, had repeatedly recognized the rights of civilians in occupied countries. At the Hague Peace Conference of 1907, an amendment was submitted by the German delegate, Maj. Gen. von Gundell, which read:

'A belligerent is likewise forbidden to compel the nationals of the adverse party to take part in the operations of war directed against their country, even when they have been in his service before the commencement of the war.'

The German manual for war on land (Kriegsbrauch im Landrecht, ed. 1902) stated:

'The inhabitants of an invaded territory are persons endowed with rights subject to certain restrictions but who otherwise may live free from vexations and, as in time of peace, under the protection of the laws.'

A faint effort has been made to show that, although no formal judicial proceeding in the nature of an accusation and trial was had in each case, nevertheless each commitment to a concentration camp was preceded by a sort of "cabinet trial" by the Gestapo and that this complied with German law. To put it bluntly, the Tribunal does not believe a word of it. Commitments to concentration camps did not depend upon individual con-

duct but were the carrying out of a broad categorical Nazi political policy, frankly announced by Himmler. We can hardly be expected to believe that the thousands of Eastern women in Ravensbrück and the boys and girls who were liberated from the concentration camps by the Allied Armies were accorded even a "cabinet trial". When whole villages were deported, en masse, it is ridiculous to believe that each of the inhabitants was accused of some infraction of German law, given a hearing of even the "cabinet" variety, and then solemnly found guilty and committed. Could any rational person believe that this or any comparable procedure accompanied the annihilation of the ghetto at Warsaw?

Far from making any attempt at formal accusation and determination of guilt, a conscious effort was made to evade these embarrassing steps which slowed up the program of extermination. On October 13, 1942, Thierack, Reich Minister of Justice, wrote to Martin Bormann, stating (Ex. 335):

" I intend to turn over criminal proceedings against Poles, Russians, Jews and Gypsies to the Reichsfuehrer SS. In so doing I base myself on the principle that the administration of justice can only make a small contribution to the extermination of members of these peoples. The Justice Administration undoubtedly pronounces very severe sentences on such persons, but that is not enough to constitute any material contribution towards the realization of the above-mentioned aim. I am of the opinion that considerably better results can be accomplished by surrendering such persons to the police, who can then take the necessary measures unhampered by any legal criminal evidence. The police may prosecute Jews and Gypsies irrespective of these conditions."

This specious and shallow excuse has been offered seriously in justification of a nation-wide policy of deportation and slavery. We have witnessed a strange anomaly in this case. Defendants and their witnesses have bowed their heads in profound shame at the evidence of mass murder and wholesale extermination, but as to the cruel enslavement of whole races,

they evidence little or no feeling of guilt or culpability whatsoever. They spoke freely and made voluminous records of "prisoner labor" and "inmate labor". They made elaborate industrial plans and wrote without shame, "We have been promised 8000 Jewish laborers for this enterprise." They planned and started pretentious monuments to the Nazi ideology and wrote, "Saukel says that Eastern laborers cannot be furnished now, but that there should be no difficulty after the war." The SS economic leaders carried on extended negotiations over what they euphemistically called "prisoners' wages". Elaborate sliding wage scales were drafted and published. But in fact all this had nothing to do with wages. Not one mark was paid to the wage earners. The peons who wore the convicts' garb and carried the heavy stones up the hill from the quarry at Mauthausen received only potato soup and a pallet of straw for their work. "Wages" referred to the amount the SS and other industries should pay per hour to the German Reich, the owner of the slaves. It seems to have been taken for granted by the Nazi leaders and the SS that mass deportation to enforced labor was a natural and legitimate concomitant of successful invasion, and that the civilian population was merely a part of the victor's spoils.

Slavery may exist even without torture. Slaves may be well fed and well clothed and comfortably housed, but they are still slaves if without lawful process they are deprived of their freedom by forceful restraint. We might eliminate all proof of ill-treatment, overlook the starvation and beatings and other barbarous acts, but the admitted fact of slavery - compulsory uncompensated labor - would still remain. There is no such thing as benevolent slavery. Involuntary servitude, even if tempered by humane treatment, is still slavery.

The extent of the deportation of eastern civilian laborers and the ruthless manner in which they were seized and abducted has been related in detail in the judgment of the International Military Tribunal (pp. 243-247, Official Edition). To repeat the shocking story in the judgment in this case would serve no useful purpose. It is sufficient simply to state that it has been repeatedly and conclusively proved before this and other Tribunals that about 5,000,000 men, women and children were violently seized and forcibly deported as slaves. As to the systematic extermination of the Jews, the International Military Tribunal has found (pp. 247-252, Official Edition) that, in pursuance of a fanatical public policy, it was deliberately decided to exterminate an entire race of human beings. There is no way to determine the total number of Jews who were killed, but in testimony before the International Military Tribunal it was stated that one military group operating in the East killed 90,000 people in one year and another group killed 135,000 Jews and Communists in the first four months of the program. With these findings of fact by the International Military Tribunal this court is in full accord and adopts them as found facts in the present case.

MEDICAL EXPERIMENTS

The fact that criminal medical experiments were performed upon the involuntary inmates of concentration camps has been repeatedly proved and determined before these Tribunals, in the case of United States vs. Karl Brandt, et al. (Tribunal I), in the case of United States vs. Erhard Milch, tried before this Tribunal, and by ample and convincing proof in the instant case. To completely document this finding of fact would result in un-

duly prolonging this judgment. It is sufficient to state that the performance of such criminal medical experiments has not been seriously denied. Defendants have unanimously denied knowledge of or participation in such experiments, but the proof of their performance stands substantially uncontradicted. The names of Dr. Rascher, Dr. Grawitz and Dr. Beigelboeck have become infamous. The concentration camps furnished an unlimited supply of human subjects for these barbarous experiments, and inmates in large numbers were compelled to submit to so-called scientific tests which invariably involved torture and in thousands of cases maiming, disfigurement and death. Inmates were placed in tanks, where the air pressure was decreased in simulation of high altitudes. A careful chart was kept of their violent reactions, which indicated intense pain and suffering. The chart not infrequently ended with, "Subject died at 9:18". Others were exposed naked to freezing temperatures for hours, aided by ice-water immersion. As was to be expected, many subjects froze to death. Others were compelled to drink sea-water until they went mad from thirst. Inmates were exposed to artificial inoculation of yellow fever, cholera, malaria, typhus and spotted fever, and hundreds died as a result. Incisions were made in the legs of subjects and the development of gangrene accelerated by the introduction of septic foreign matter. Poison gas, mustard gas, phosphorous and sulphur were used on inmates in order to prove that these chemicals are dangerous and often fatal - by no means a novel scientific finding. This is but a part of the horrible inventory. As one means toward "a final solution of the Jewish problem," a program of wholesale sterilization of the Jews was instituted and various methods by which sterility could be accomplished without the knowledge of the victim were devised. Even deliberate castration was resorted to.

EUTHANASIA

The wholesale extermination of those inmates who for any reason had become economically valueless to the Reich was accomplished by the euthanasia program. This plan was originally adopted to dispose of the insane, but it was expanded to include the incurables, the aged, the "idle eaters", the habitual criminals, and finally the political irreconcilables. It was a national Reich-approved plan for deliberate and premeditated murder on a large scale. Elaborate case histories of inmates were prepared and screened at the camps by travelling physicians, who by a process of snap judgment determined whether men and women should live or die. Those whose records happened to fall in the extermination file were shipped, like cattle to market, to an institution at Bernberg where "Action 14 f 13" was applied. This often was done by the injection of phenol or gasoline into the bloodstream, causing immediate death. After the extermination, the victim's personal effects, including the gold in his teeth, were shipped back to the concentration camp and a report of "death from natural causes" was made out. This program was also extensively carried out directly in the concentration camps by the camp physicians.

TREATMENT OF CONCENTRATION CAMP PRISONERS

The only interest which the SS and the Reich had in concentration camp inmates was as productive units. They were regarded as so many machines, not as human beings. The only concern with the collapse or death of an inmate was with the loss of a productive laborer. Their arrogant attitude that all non-Germans were sub-humans made them wholly indifferent to the fate of those whose right to live out their lives was as

sacred as that of any German. This attitude was epitomized by Himmler when he said:

"Whether ten thousand Russian females fall down from exhaustion while digging an anti-tank ditch interests me only in so far as the anti-tank ditch for Germany is finished."

And later, at Posen, in October 1943, he said:

"At that time we did not value the mass of humanity as we value it today, as raw material, as labor. What, after all, thinking in terms of generations, is not to be regretted, but is now deplorable by reason of the loss of labor, is that the prisoners died in tens and hundreds of thousands of exhaustion and hunger."

When grinders or lathes broke down under hard use, they were scrapped; when inmates collapsed from exhaustion or hunger, they were shot or gassed. There was nothing incongruous in this to the twisted Nazi psychology. They talked and wrote frankly and volubly about it. True, there were some who professed a humanitarian interest in the welfare and comfort of the inmates and who made some effort to alleviate their intolerable condition, but they still kept them hard at work. Tasks were found even for the bedridden, while they awaited their turn at the gas chambers. The ghastly story of Germany's mistreatment of the millions of slaves who filled her concentration camps to bursting - the endless hours of exhausting labor, the beatings and killings, the starvation, the degradation - this has become stale from retelling. That's the pity of it. It can be so soon forgotten. But let it be recorded here once more, for generations unborn to read and ponder, that millions of human beings between 1939 and 1945 were cast into slavery and treated with inhuman cruelty by a nation whose only excuse was economic need - the Nazi credo of "the state above humanity."

The story has come to the Tribunal from the lips of witnesses who personally experienced the horrors of the concentration camps -

Victor Abend - Polish inmate of three camps
Bernhard Lauber - Polish inmate of two camps
Jerzy Bielski - Polish inmate of two camps
Henry Kruse - German inmate at Neuengamme
Chaim Balizki - Polish inmate of two camps
Herbert Engler - German inmate of Sachsenhausen
Eugen Kogen - Austrian inmate of Buchenwald
Josef Ackerman - German inmate of two camps
Wolfgang Sanrer - German inmate of Mauthausen
Franz Mis - Yugoslav inmate of Dachau
Helmut Bickel - German inmate of two camps

We have had proof from camp commanders and physicians -

Karl Kahr - Doctor at Dachau, Buchenwald and Nordhausen
Otto Barnewald - Administrative Chief at Mauthausen,
Neuengamme and Buchenwald
Herman Pister - Commandant at Buchenwald
Gerhard Schiedlausky - Doctor at Mauthausen, Natzweiler
and Buchenwald
Max Pauly - Commandant at Neuengamme
Rudolf Hoess - Commandant at Auschwitz
Phillip Grimm - Commandant at Buchenwald

We have seen the motion pictures of the frightful conditions in some of the camps when they were captured by the Allies - conditions so ghastly that they defy description. The proof is overwhelming that in the administration of the concentration camps the German war machine, and first and foremost the SS, resorted to practices which would shame the most primitive race of savage barbarians. All the instincts of human decency which distinguish men from beasts were forgotten and the law of the jungle took command. If there is such a thing as a crime against humanity, here we have it repeated a million times over.

TREATMENT OF THE JEWS

This disgraceful chapter in the history of Germany has been vividly portrayed in the judgment of the International Military Tribunal (pp. 247-253, 303, Official Edition). Nothing can be added to that comprehensive finding of facts, in which this Tribunal completely concurs. From it we see the unholy spectacle

of six million human beings deliberately exterminated by a civilized state whose only indictment was that its victims had been born in the wrong part of the world of forebears whom the murderers detested. Never before in history has man's inhumanity to man reached such depths. Had Germany rested content with the exclusion of Jews from her own territory, with denying them German citizenship, with excluding them from public office, or any like domestic regulation, no other nation could have been heard to complain. But such prejudice and hatred, once fanned into flame, is difficult to control. And so, when the Nurnberg decrees against the Jews were pronounced, the fuse was lighted and soon the program of world-wide extermination of Jews was launched. Had Germany not been checked, one wonders what race or creed or nation would next have been branded as sub-human and marked for extermination.

In his own affidavit of April 1, 1947 (Ex. 523), Pohl states:

"The liquidation of Jews in the Auschwitz concentration camp in the years 1942 and 1943, when Rudolf Hoess was commander, was known to me through Himmler's speech, and I myself also saw the gas chambers and the crematorium in Auschwitz in the summer of 1944."

The most lurid descriptions of the Jewish extermination program are found in the reports of German officers themselves, in which, it can be assumed, the cruelties and atrocities are not exaggerated. Lieutenant General of Police Katzman, reporting with evident pride in June 1943 on progress in murder in Galicia, writes:

"I report that the District of Galicia with the exception of those Jews living in the camps under the control of the SS and Police is free from Jews. Jews still caught in small numbers are given special treatment by the competent detachments of Police.

"Up to June 1943, 434,329 Jews have been evacuated. 21,156 Jews are still in concentration camps. This number is being reduced 'currently'.

"Since we received more and more alarming reports on the Jews becoming armed in an ever increasing manner, we started during the last fortnight in June 1943 an action throughout the whole of the district of Galicia with the intent to use strongest measures to destroy the Jewish gangsterdom. Special measures were found necessary during the action to dissolve the Ghetto in Lwow where the dug-outs mentioned above had been established. Here we had to act brutally from the beginning, in order to avoid losses on our side; we had to blow up or to burn down several houses. On this occasion the surprising fact arose that we were able to catch about 20,000 Jews instead of 12,000 Jews who had registered. We had to pull at least 3,000 Jewish corpses out of every kind of hiding places; they had committed suicide by taking poison."

The "special treatment" referred to means slaughter on the spot. The periodic reports of Stroop, SS Brigadefuehrer and Major General of Police, who was charged with the destruction of the Warsaw ghetto, portray an astounding adventure in wholesale murder and robbery, ending with the terse statement, "There is no Jewish ghetto in Warsaw any more." The action terminated, he says, by blowing up the Warsaw synagogue. He then submits an inventory of his victims: 56,065 Jews exterminated plus an estimated 5,000 to 6,000 destroyed by being blown up or dying in burning buildings. 4,400,000 zlotys (Polish units of currency) seized and counted, with five to six million more uncounted. Also gold and paper money and large amounts of jewelry are listed. What strange mental twist induces this man to constantly refer to the inmates of the ghetto as "bandits"? The German Inspector of Armament in the Ukraine reports in December 1941:

" later specially detached formations of the police executed a planned shooting of Jews. It was done entirely in public and in many instances with members of the armed forces taking part voluntarily. The way these actions, which included men, old men, women and children of all ages, were carried out was horrible. So far about fifteen to twenty thousand Jews have been executed in the part of the Ukraine belonging to the Reich."

In October 1941, Reich Commissioner Carl for the Territory of Slusk, reports:

"The town itself offered a picture of horror during the action. With indescribable brutality the Jewish people were taken out of their dwellings and herded together. Everywhere in the town shots were to be heard and in different streets the corpses of shot Jews accumulated. The police battalion has looted during the action in an unheard of manner..... Anything of use such as boots, leather, cloth, gold and other valuables has been taken away."

The Tribunal is quite willing to accept these statements of these high-ranking German officers, who were eye-witnesses, as conclusive proof of the facts related.

LOOTING OF PUBLIC AND PRIVATE PROPERTY

The story of systematic pillage of occupied countries is related in the judgment of the International Military Tribunal (pp. 238-243, Official Edition), which this Tribunal adopts as findings of fact in this case. It is a tale of ruthless depravity unequalled in history. It was not confined to looting by individuals or isolated detachments. It was the carrying out of a general military policy, announced by the top command at the outset of the war. As early as October 1939, Goering issued the following directive:

"The task for the economic treatment of the various administrative regions is different, depending on whether the country is involved which will be incorporated politically into the German Reich, or whether we will deal with the Government-General, which in all probability will not be made a part of Germany. In the first mentioned territories, the safeguarding of all their productive facilities and supplies must be aimed at, as well as a complete incorporation into the Greater German economic system, at the earliest possible time. On the other hand, there must be removed from the territories of the Government-General all raw materials, scrap materials, machines, etc., which are of use for the German war economy. Enterprises which are not absolutely necessary for the meager maintenance of the naked existence of the population must be transferred to Germany....."

In pursuance of this policy of deliberate plunder, Poland, the Ukraine and the occupied parts of Russia were stripped of agricultural supplies, food, raw materials, manufactured articles and such machinery as could not be used for German purposes where it stood. Obviously, this left large numbers of the population of these countries to starve, a fact which did not concern the German forces in the least. Alfred Rosenberg, Reich Minister for the occupied eastern territories, bluntly stated in 1941 that the produce of Southern Russia and the Northern Caucasus should be taken to the Reich to feed the German people. He said:

"We see absolutely no reason for any obligation on our part to feed also the Russian people with the products of that surplus territory. We know that this is a harsh necessity, bare of any feelings."

To call such inhuman policy "a harsh necessity" is the acme of understatement. It was deliberate murder by starvation, nothing less. To show that the policy of plunder was not prompted by economic needs alone or the necessity of supplying the German army and population with necessaries, we find that churches, libraries, art galleries and museums, not only in the East but in France, Belgium and Holland, were systematically looted of their treasures. This thievery was ordered, as the decree of Himmler put it, "for the strengthening of Germanism." The connection between the avowed purpose and the crime is not entirely clear. The experience of Prince Max Lobkowitz of Bohemia is typical. In his affidavit (Ex. 723) he states:

"I am the owner of landed property, situated in several districts of Bohemia Over two-thirds of this property came under German rule in October 1938 as a result of the occupation by the Germans after Munich.

"The rest of my property, including my chief residence at Roudnice and my house at Prague, came

under German rule in March 1939, just after I had escaped with my family (wife and 3 sons) to London.

"I remained in the Czechoslovak diplomatic service, which I had entered in 1920, in London and during the war was appointed first Minister and later Ambassador to the Court of St. James. In February 1947, I was transferred from London to the Ministry of Foreign Affairs at Prague, to which I am attached now.

"The whole of my property was confiscated by the Germans.

"This confiscation included farm land, forests, vineyards, etc., as well as natural mineral springs, breweries, saw-mills and several large houses, with old family collections (over 1000 pictures, furniture, a library of over 100,000 volumes, historical archives, etc.)."

ACTION REINHARDT

The extermination and deportation of the Jews in the East produced a vast amount of valuable property, both real and personal, which the Reich was quick to recognize and seize. To marshal these resources, the Action Reinhardt was instituted, named, appropriately enough, for Reinhardt Heydrich, formerly Chief of the Security Police and SD, who met his death - and this, too, appropriately enough - in Czechoslovakia in 1942. The purpose of the action was to gather into the Reich all the Jewish manpower and wealth which could be reached. It was an ambitious and profitable undertaking for Germany. The Jews themselves were herded into concentration camps as slaves and their entire worldly possessions confiscated. The real property, where possible, was put to German use (largely through the WVHA agency of OSTT) and the movable property was shipped to WVHA, where it was inventoried and appraised and distributed through prescribed channels. The thoroughness of this program of looting is evidenced by the articles listed: Featherbeds, quilts, blankets, woolen yardage, shawls, umbrellas,

canes, thermos bottles, flasks, baby carriages, combs, handbags, belts, pipes, sun glasses, mirrors, table silver, luggage, linens, pillows, eye glasses, furs, watches, clocks and jewelry. Everything that could be lifted was moved. The defendant Frank listed as received up to April 30, 1942, 24,000 men's watches, 33,000 women's watches and 25,000 fountain pens. Currency and precious metals seized reached a total value of 80,000,000 Reichsmarks. About 2,000 carloads of textiles reached Germany as a result of this plunder, and in all a grand total of over 100 million Reichsmarks in personal property was thus acquired. When Jews died in concentration camps, additional loot became available. The clothing was stripped from their bodies and, after being carefully searched for hidden valuables and the distinguishing Jewish star removed, was distributed to still living inmates or to German civilians. Camp commandants were cautioned not to ship clothing which was stained with blood or showed bullet holes. To complete the desecration, the hair was shorn from the heads of the dead (one report showed a carload of 5,000 kilograms) and all the dental gold was extracted and deposited through WVEA in the vaults of the Reichsbank. It was ordered by the defendant Frank that all property originating from Action Reinhardt be called "goods originating from thefts, receiving of stolen goods, and hoarded goods." In the true sense, this description is more accurate than Frank intended.

In the Southern German Legal Gazette, March 1947, crimes against humanity are defined as acts involving "cruelty against human life, degradation of the dignity of man or destruction of human civilization." The Tribunal is quite content to use this German concept as a standard in deciding whether or not the facts heretofore found constitute crimes against human-

ity. Only one conclusion is possible. These facts establish beyond a reasonable doubt the wholesale commission of both war crimes and crimes against humanity. It next becomes necessary to determine to what extent, if any, the several defendants are criminally responsible therefor, by reason of actual perpetration, participation or taking a consenting part therein.

A defense which has been almost universally advanced is that all the criminal acts of the Reich were conducted under a cloak of secrecy which prevented the defendants from knowing about them. Hitler's famous secrecy order has been offered by nearly every defendant. It has been urged that there was strict censorship of the press, that listening to foreign broadcasts was prohibited, that concentration camp prisoners were required upon their release to be sworn to secrecy as to events which they had observed or experienced, and that the German people generally were kept in complete ignorance of what was going on. All these facts are true. But in the very nature of things, it was impossible to maintain complete secrecy or anything like it. It was impossible to keep hidden from public view the huge transports which carried the slave laborers from the East to the concentration camps. It was impossible to keep secret the public demonstrations against the Jews. Streicher's infamous "Der Sturmer" had a circulation of 600,000 copies. Himmler spoke openly about "the final solution of the Jewish problem" at Posen, Cracow and Metz. When prisoners were liberated from concentration camps, it is impossible to think that they maintained the complete secrecy to which they were bound. Soldiers returning on leave from Poland, Russia and the Ukraine must have talked to some extent. The pall of smoke from the crematoria

ity. Only one conclusion is possible. These facts establish beyond a reasonable doubt the wholesale commission of both war crimes and crimes against humanity. It next becomes necessary to determine to what extent, if any, the several defendants are criminally responsible therefor, by reason of actual perpetration, participation or taking a consenting part therein.

A defense which has been almost universally advanced is that all the criminal acts of the Reich were conducted under a cloak of secrecy which prevented the defendants from knowing about them. Hitler's famous secrecy order has been offered by nearly every defendant. It has been urged that there was strict censorship of the press, that listening to foreign broadcasts was prohibited, that concentration camp prisoners were required upon their release to be sworn to secrecy as to events which they had observed or experienced, and that the German people generally were kept in complete ignorance of what was going on. All these facts are true. But in the very nature of things, it was impossible to maintain complete secrecy or anything like it. It was impossible to keep hidden from public view the huge transports which carried the slave laborers from the East to the concentration camps. It was impossible to keep secret the public demonstrations against the Jews. Streicher's infamous "Der Sturmer" had a circulation of 600,000 copies. Himmler spoke openly about "the final solution of the Jewish problem" at Posen, Cracow and Metz. When prisoners were liberated from concentration camps, it is impossible to think that they maintained the complete secrecy to which they were bound. Soldiers returning on leave from Poland, Russia and the Ukraine must have talked to some extent. The pall of smoke from the crematoria

at Auschwitz could not be kept hidden. In spite of decrees, foreign broadcasts were heard. The systematic murder of millions of human beings, extending over five years, could not by reason of its very magnitude be kept secret. It is undoubtedly true that millions of obscure and unimportant German citizens had no way of knowing and did not know of the horrible wrongs which were being perpetrated. But if high-ranking officers of the SS, whose daily tasks for years brought them into immediate contact with the operation of the camps, claim that they had no suspicion of the events occurring within the barbed wire, that defense cannot be believed. Undoubtedly some knew more than others and some limited few knew nothing. With this conclusion Pohl himself agrees. In his interrogation of June 13, 1946 (Ex. 693), Pohl was confronted by Kaltenbrunner's testimony before the International Military Tribunal that "there were only a handful of people in the WVHA who had any control or knew anything about concentration camps," to which Pohl commented:

"Well, that is complete nonsense. I described to you how these were handled in the WVHA. As for instance, in the case of the use of textiles and turning in of valuables, and also from Gluecks and Loerner right on down to the last little clerk, must have known what went on in the concentration camps, and it is complete nonsense for him to speak of just a handful of men."

In Liebehenschel's letter of February 25, 1943, written as Chief of Amtsgruppe D of the WVHA and addressed to all the concentration camp commanders, he states that the population in the East is beginning to be startled by the frequent casualties in the concentration camps. Apparently, in some areas at least, the secret was beginning to leak out.

The Tribunal is convinced that the ignorance professed by many of the defendants is the ignorance of convenience.

At the outset of the testimony, the Tribunal realized the necessity of guarding against assuming criminality, or even culpable responsibility, solely from the official titles which the several defendants held. It became apparent that, in conformity with the ancient German passion for high-sounding titles, many purely ministerial officers, performing perfunctory or even menial tasks, were designated by sonorous names which did not necessarily connote substantial power or authority. In some instances minor officers, engaged in purely routine tasks, were designated on the elaborate tables of organization by lengthy and awe-inspiring titles, which upon closer inspection were found to cover nothing more than a few desks in a remote corner. The Tribunal has been especially careful to discover and analyze the actual power and authority of the several defendants, and the manner and extent to which they were exercised, without permitting itself to be unduly impressed by the official designations on letterheads or office doors.

OSWALD POHL

Prior to 1934, defendant Pohl was Chief Disbursing Officer of the German Navy. On a visit by Himmler to the Naval Base at Kiel in 1934, he met Pohl and persuaded him to sever his connection with the Navy and assume an administrative position with the SS Main Office. Pohl had been a member of the National Socialist Party since 1926 and of the SA since 1929. At Himmler's insistence he became Chief of the Administrative Department of the SS Central Office in February 1934. In 1939 that office was organized into two Main Offices under the names "Main Office Budget and Building" and "Main Office Administration and Economy." These offices were in complete charge of all administrative matters affecting the fast-growing SS. On February 1, 1942, these two Main Offices were united and renamed "SS Administrative Main Office," known as "WVHA", to which was also added the Main Office of Inspector of Concentration Camps, which became Amtsgruppe D.

For eleven years Pohl was continuously the administrative head of the entire SS organization. His only superior within his field was Himmler. At the beginning of the war he became a member of the "Freundeskreis" or "Circle of Himmler's Friends," a small select group of intimates who enjoyed Himmler's confidence. As Chief of the WVHA he was in absolute control of an organization composed of 5 amtsgruppen and 28 amts, with a personnel at the peak of over 1700 employees. He not only directed and administered the fiscal affairs of the entire SS but he was in charge of the administrative aspects of all concentration camps and was head of the tremendous industrial empire which the SS built up under

Amtsgruppe W. It is obvious that his duties were not perfunctory or formal but that he was an experienced, active and dominant head of one of the largest branches of the German military machine. Although he had no actual military duties in the field, he attained the military rank of Obergruppenfuehrer, which is equivalent to the rank of Lieutenant General.

CONCENTRATION CAMPS

Three months after the outbreak of the war, Himmler ordered that "the supervision of the economic matters of these institutions and their application to work is the responsibility of SS Obergruppenfuehrer Pohl." The change in Reich policy by which concentration camps were converted from places of mere detention to places of productive free labor was announced in April 1942, and the ruthless plan of exacting from concentration camp inmates their last ounce of energy in furtherance of the Reich's war plans became operative. It became Pohl's task to implement this policy and to make it work effectively for the Reich. Neither Pohl nor the WVHA had anything to do with the commitment of inmates to concentration camps nor with their release, except by death. Neither Pohl nor any other member of the WVHA had authority to order the execution of concentration camp prisoners. Nor is there any evidence that he or they attempted to exercise any such prerogative. The order for executions originated between the Secret State Police and Himmler personally. The greater part of the task of procuring inmates fell upon the Security Police and the SD, although it is quite evident that the SS and the Wehrmacht in the field rendered no little assistance. Pohl's jurisdiction began when the inmates reached the gates of the concentration

camps. Pohl has contended that the inclusion in WVHA of Amtsgruppe D, which was concerned exclusively with concentration camp matters, was more a formal than an actual subordination and that this amtsgruppe, under Gluecks and Maurer, continued to operate more or less independently of Pohl, taking most of their orders directly from Himmler. It is probably true to some degree that the heads of Amtsgruppe D, which had formerly been an SS Main Office, resented somewhat their subordination to Pohl and continued to look to Himmler for orders. The fact remains, however, that Pohl, as head of the WVHA, was the superior of Gluecks and Maurer and was in a position to exercise and did exercise substantial supervision and control over Amtsgruppe D. Pohl himself, in his affidavit of April 3, 1947 (Ex. 525), states:

"..... Gluecks was Chief of Amtsgruppe D and was subordinate to me in my capacity as Main Office Chief. Thus I became authority for the administration of concentration camps within the sphere of activity of the WVHA. The camp commanders were nominated by the SS Personnel Office on my recommendation and appointed by me."

As chief judicial officer of the SS, he had full disciplinary power over all guards who served in the concentration camps. All judgments arising in disciplinary proceedings against SS guards were submitted to Pohl for modification or confirmation.

One of the purposes in organizing the WVHA was to centralize and concentrate administrative authority and to reduce the number of independent administrative offices. In view of the fact that the SS enterprises administered under Amtsgruppe W were manned by concentration camp inmates and in many instances operated in concentration camps themselves, it was inevitable that the administrative affairs of the camps should be placed in the hands of Pohl, who was also the head

of the enterprises. The camps and the enterprises were so inseparable that a unified control of both had to be fixed, and this control was imposed on Pohl.

Armed with this power, Pohl energetically set about driving the inmates to the limit of endurance in order to further the economic and war efforts of the Reich. In April 1942, he wrote to Himmler:

"The custody of prisoners for the sole reasons of security, education or prevention is no longer the main consideration. The mobilization of all prisoners who are fit for work, for purposes of the war now and for purposes of construction in the forthcoming peace, come to the foreground more and more."

In the affidavit of Phillip Grimm (Ex. 298), who in 1942 was Labor Assignment Officer at Sachsenhausen and later was transferred to Office D II of WVHA, it is stated:

"Through my activity as Labor Assignment Officer I know that in 1942 an order by Pohl was sent to the Concentration Camps, which authorized the Camp Commanders to retain prisoners who had been released for discharge by the Reich Security Main Office, but were important for the organization of labor in the camp. The duration of this illegal imprisonment could be extended to the end of the war."

To the very end of the war Pohl kept a tight rein on all aspects of concentration camp administration. He constantly fought for longer hours, more intense effort, more production, selection of specialized skills, less loafing, and more strict supervision. As of July 1944 there were 20 concentration camps and 165 labor camps supervised by his Main Office. There was no phase of the administration of these camps in which he was not intensely interested, and this interest manifested itself at times in the smallest details. In some instances he recommended appointments and transfers of camp commanders, who were the slave drivers in the camps. In January 1943, in a letter to all camp commanders, he directed that the working hours of

prisoners be kept at 11 hours per day during the winter, 6 days per week, and a half day on Sunday. In May 1941, when he found that half of a shipment of Jews from Hungary were women, he asked Himmler's approval for putting them to work on construction projects. Needless to say, Himmler consented. In December 1943, Pohl wrote to all camp commanders, complaining that SS guards were not urging prisoners to work sufficiently, stating,

"Please instruct detachment leaders every Monday on this obvious duty of the guards."

In August 1942, Gluecks, Chief of Amtsgruppe D, in writing to the camp commanders, stated that Pohl had ordered that punishment by beating was to be executed by prisoners in concentration camps for men, but that it was forbidden to have foreign prisoners execute the punishment on German prisoners. This letter is significant because it recognizes Pohl's superior authority to issue such an order. If Gluecks enjoyed the degree of independence which Pohl attributes to him, he would have issued this order in person without attributing it to Pohl. On several occasions Pohl's interest led him to inspect concentration camps in person. He visited Ravensbruck, Auschwitz, Dachau and Oranienburg. During his visit to Auschwitz in 1943, Pohl was shown the plans for the enlargement of the camp, including the construction of four new crematoria with modern gas chambers. His solicitude for the inmates led him to order that specially hardworking prisoners be granted additional rations of food and tobacco and permission to patronize the camp brothel. For this last service Pohl fixed the charge and prescribed the method of dividing the income between the female inmates, the woman manager, and the WVHA. He also held periodic conferences with concentration camp commanders

in Berlin. It was part of his duty to select new sites for concentration camps and to determine their economic potentialities. When a new camp was proposed, he determined its size and capacity and the number of inmates which would be utilized in it.

There is no need to further elaborate upon the proof on this point although much more could be adduced. From all the evidence, it becomes clear to the Tribunal that Pohl at all times had an intimate and detailed knowledge of happenings in any way connected with the concentration camps. He made it his special business to know these facts. It is futile for him to say that he was not aware of the crematoria when the plans were drawn and the construction supervised in his own organization and he visited the camps where they were installed. Nearly every Amt Chief testified that he reported frequently to Pohl in person concerning events and problems arising in his immediate sphere. According to his own testimony and correspondence, he kept a running inventory, classified as to nationalities, of the labor supply of inmates in every camp. He knew how many prisoners died; he knew how many were unfit for work; he knew when mass transfers were made from camp to camp. There was doubtless no other one person in Germany who knew as much about all the details of the concentration camps as Pohl. At least this much can be said and cannot be denied, that Pohl knew that hundreds of thousands of men and women had been cast into concentration camps and compelled to work, without remuneration and under the most rigid confinement, for the country which had devastated their homelands and abducted them into bondage. When these slaves died from exhaustion or starvation or from the abuse of the SS overseers, Pohl cannot escape the fact that he was the administrative head of the agency which brought

about these tragedies. His was more than a mere consenting part. It was active participation. Leaving all other considerations aside, Pohl stands before this Tribunal as an admitted slave driver on a scale never before known. On this count if no other he is guilty of direct participation in a war crime and a crime against humanity.

The mistreatment of prisoners of war, especially Russian and Polish prisoners, in the concentration camps, must also be laid at the door of Pohl. On September 30, 1944, Martin Bormann, Director of the Party Chancellory, sent out an order from Hitler, which said in part:

"The mobilization of labor of the prisoners of war will be organized with the present labor mobilization office in joint action between SS-Obergruppenfuehrer Berger and SS-Obergruppenfuehrer Pohl."

On September 28, 1944, Himmler ordered that the question of the labor allocation of prisoners of war was to be submitted to Pohl. Not since the Roman Caesars brought back their prisoners of war chained to their chariot wheels has such inhuman treatment been accorded captives in battle as is shown by the record in this case. They, too, were simply grist for Germany's mill. By her treatment of these prisoners, Germany made the honorable profession of a soldier a by-word and a slur.

DESTRUCTION OF THE WARSAW GHETTO

In the Fall of 1942, Himmler's plans for the complete subjugation of Poland reached a pinnacle. The Jewish ghetto at Warsaw covered a total area of approximately 320 hectares, or 800 acres. It comprised a large residential area and, in addition, housed a great number of industrial enterprises, principally textile and fur manufacturing plants. The ghetto had a population of nearly 60,000 persons. In October, Himmler

ordered that the entire Jewish population of the ghetto was to be gathered together in concentration camps in Warsaw and Lublin, to be used as an immense labor pool for armament purposes. After the round-up was completed, the Jews were to be deported to large concentration camps in the East and Polish labor substituted in the Warsaw industries. Himmler added:

"Of course, there, too, the Jews shall someday disappear in accordance with the Fuehrer's wishes."

All private Jewish firms were to be eliminated and no Jew was to be employed in private industry. This order raised a strong protest from the armament firms in Warsaw, in which a large number of Jews were employed, but Himmler was obdurate and insisted on the letter of his order being carried out. The Jewish residents of the ghetto, however, resisted deportation vigorously, and a pitched battle, lasting over a week, was necessary to uproot them. In February 1943, Himmler directed that after the removal of the concentration camp the ghetto be completely demolished. In his order he stated:

"A master plan for the pulling down of the ghetto has to be submitted to me. It has to be accomplished in any case that the living space, which accommodated 500,000 sub-humans and was never suitable for Germans, will completely disappear, and that the City of Warsaw, with its one million inhabitants, will be reduced in size, having always been a dangerous center of rebellion."

This gigantic task of destruction and deportation was committed to Pohl as Chief of the WVHA. Himmler directed that the "city center of the former ghetto is to be flattened completely and every cellar and every canal is to be filled in. After the work is finished, the area is to be covered up with earth and a large park is to be planted."

By an order dated June 23, 1943, addressed to the Higher SS and Police Leader in the East and to Pohl, Himmler ordered the erection of a concentration camp in the vicinity

Pohl's ?
Trim U. ?

of Riga, to which the largest possible number of the male Jews were to be transferred. Surplus Jews from the ghetto were to be evacuated to the East, which meant ultimate starvation or extermination. In the summer of 1943, Pohl set to work to carry out Himmler's order. The concentration camp in the Warsaw ghetto was established and Pohl appointed Goecke, a veteran of Mauthausen, as commandant. Pohl reported to Himmler that at first there were only 300 prisoners in the camp but that this number would be increased as speedily as possible. In October, Pohl reported that Amtsgruppe C of the WVHA had been charged with the technical execution of the demolition order and Amtsgruppe D with the placing of the prisoners. Pohl engaged 4 private contracting firms, who guaranteed to pull down and remove 4500 cubic meters daily. He advised that 1500 prisoners were being used as laborers at the end of October, but that upon securing additional mechanical equipment 2,000 more prisoners would be needed at once. In February 1944, Pohl reported that 3,750,000 cubic meters of buildings had been demolished, and that 2,040 prisoners were being used. By April, 6,750,000 cubic meters had been "pulled down and blasted" and 2,180 prisoners were being used. By June, 10,000,000 cubic meters had been destroyed and the concentration camp had been completed. Thus was accomplished the most complete task of destruction of a modern city since Carthage met its fate ten centuries ago, and in this nefarious undertaking Pohl stood hand in glove with Himmler and Stroop in accomplishing the task of total destruction. This was not a city taken in battle; it had long before been captured and occupied by the German armed forces. It was the deliberate and intentional destruction of a large modern city and its entire civilian population. It was wholesale murder, pillage,

thievery and looting, and Pohl's part in accomplishing this abominable project is recorded in his own handwriting. He cannot free himself from his share in Brigadefuehrer Stroop's shameful boast -

"The total number of Jews dealt with is 56,065, including Jews caught and Jews whose extermination can be proved."

MEDICAL EXPERIMENTS

Pohl's connection with the medical experiments, which have already been described, consisted only in supplying the subjects from the inmates of the concentration camps. It is not claimed that he actually participated in the performance of the experiments or did anything more than make them possible by supplying victims from his inmate pool. Here, again, his own writings convict him. In his own affidavit, dated June 23, 1946 (Ex. 183), Pohl outlines his part in these experiments. He states that he was aware that experiments were being performed from April 1942 until the end of 1944; that Dr. Schilling continually asked for prisoners, but that he does not know the exact number that were sent; that at Himmler's request prisoners were sent to Dachau for the purpose of experimentation; that he accompanied Himmler to Dachau on one occasion and observed a high-altitude experiment; he received reports from Dr. Lolling of the number of prisoners used in experiments, totalling 350 to 400; he knew of Dr. Klauber's experiments in sterilization; he knew that about 40 different experiments were performed. He states (Ex. 184):

"The inmates were simply picked out and assigned for the experiments. Sometimes Himmler specified that inmates condemned to death should be used, but this was not always the case. There was no requirement that the subjects volunteer. We conducted no campaigns in the camp for volunteers; if these doctors were experimenting on volunteers, they need not have

gone to Himmler and the concentration camps. It was for the very reason that they could not get volunteer subjects that they went to Himmler and got him to consent to experiments on concentration camp inmates. This was a fact well known to anyone connected with those experiments. In accordance with Himmler's racial policies, non-German nationals were usually used in preference to German nationals."

Further proof of Pohl's connection with these outrageous experiments would seem unnecessary, but there is plenty in addition. The affidavit of Rudolf Brandt, Himmler's adjutant, states:

"Subjects for experiments were selected by Pohl. Himmler or I used to inform Pohl that a certain number of prisoners should be supplied for a particular experiment. Certain groups were usually specified."

Concerning the warming experiments at Auschwitz and Dachau, Himmler wrote to Dr. Rascher:

"I am sending this letter to Pohl, whom I request to order the execution of your experiments."

Himmler wrote to Dr. Grawitz approving the use of eight Jews of the Polish resistance movement for experiments in epidemic jaundice at Auschwitz and sent a copy to Pohl, with the notation -

"Request that you duly note."

Dr. Sievers wrote to Pohl as follows:

"In compliance with our request of 30 September 1943, you approved the carrying out of experiments for the production of a new type of spotted fever vaccine, and for this purpose transferred 100 suitable prisoners to Natzweiler."

Pohl was particularly interested in the production of schweigrohr, a plant to be used in producing wholesale sterilization. Pohl wrote to Himmler in June 1942, stating that experiments with this plant were at a standstill because the plant was obtainable only from North America and the proposed process for growing the plant in Germany in hot houses would not yield sufficient drug to permit large-scale experiments.

Continuing, Pohl stated that he had informed Dr. Koch that he would attempt to obtain permission to build a large hot house for cultivation of the plant. Pohl arranged to put Dr. Lolling, whom he refers to as "Chief of my Office D III," in touch with a Vienna biologist for further study, looking toward the large-scale production of schweigrohr. Rudolf Brandt sent to Dr. Glauberg Himmler's order to first confer with Pohl and then go to Ravensbruck to pursue the sterilization program on Jewesses in that camp. Brandt inquires how long it would take to sterilize a thousand Jewesses by x-ray without their knowing it. Further proof could be accumulated, but it is unnecessary. Pohl's participation in the medical experiments was intimate and direct, and he must share the responsibility for their criminality.

The Tribunal finds that the food experiments in which Pohl was greatly interested did not involve the use of poisons but were simply legitimate experiments in the nutritional values of food. As such, of course, they had no element of criminality.

ACTION REINHARDT

This Action, as has been indicated, involved a plan for draining the eastern occupied countries of their last vestige of wealth. It had the two-fold purpose of reducing the East to abject poverty so that starvation would be the inevitable result to the population and, at the same time, filling the Reich Treasury. It was a program of deliberate wholesale brigandage which was, at the same time, an added aspect of the extermination program.

In the execution of this program, Pohl's WVHA played a major role. His organization was the clearing house for all the booty. All of the stolen property was routed through WVHA, where it was inventoried, appraised and distributed. That Pohl knew of the criminal source of this property is evidenced by his letter of February 9, 1944, to Maurer, directing that valuables found in clothing were to be delivered in sealed boxes to Amtsgruppe D, and directing, further, that nothing in the shipment should reveal its origin. The money which was stolen was secreted in the Reichsbank under the assumed name of Max Heiliger. On July 4, 1944, Pohl, in a communication to the Main Office Chiefs, announced the names of officers responsible for the property seized in several areas, and stated:

"As a matter of principle, it has to be kept in mind that the entire Jewish property is to be incorporated into the Reich property."

Property from the Reinhardt action which had been delivered to the Reich Main Treasury was kept in a separate account, appropriately called "Department Booty."

Moved by the christian spirit of Christmas, Pohl on November 6, 1943, wrote to Himmler, stating that he intended to make gifts of watches and fountain pens to SS units, and asked whether the gifts should be made in Himmler's name. Himmler approved Pohl's generous plan and added that 15,000 ladies' watches should be distributed to Germans coming from Russia for resettlement. Pohl thought it would be a generous gesture to distribute 3,000 clocks which had been repaired to guards at the concentration camps and to Berlin inhabitants

who had been bombed. As an after-thought, he suggested to Himmler that 16 extra-fine gold precision wrist watches, valued at 300 Reichsmarks each, which had been repaired, be distributed among commanders of technical units.

Pohl's own statement as to his knowledge of the operation of Action Reinhardt and of his participation in the distribution of the loot is again quite sufficient. In his affidavit of April 2, 1947 (Ex. 535), he states that the Action was initiated in 1941 or 1942 and was in direct charge of SS Gruppenfuehrer Globocnik; that by Himmler's direction he contacted the President of the Reichsbank to arrange for delivery of the valuables; these transactions were to be carried out in extreme secrecy. Together with Georg Loerner and Frank and others, he visited the Reichsbank and was shown the accumulated valuables in the bank vaults. "It was never doubted", he said, "that this loot was taken from Jews exterminated in the concentration camps. As I learned in 1943, gold teeth and crowns of inmates of concentration camps were broken out of their mouths after liquidation. This gold was melted down and delivered to the Reichsbank. When I received all the vouchers, setting out the economic assets received, I realized the extent of the operation. I realized that the greatest part of the textile goods listed in these reports had been taken from people who had been violently put to death and that the purpose of the operation had been the extermination of the Jews."

In another affidavit, dated July 15, 1946 (Ex. 536), Pohl further indicates his knowledge of and participation in the ghoulish scramble. The facts stated therein are cumulative and need not be specifically referred to.

The fact that Pohl himself did not actually transport the stolen goods to the Reich or did not himself remove the gold from the teeth of dead inmates, does not exculpate him. This was a broad criminal program, requiring the co-operation of many persons, and Pohl's part was to conserve and account for the loot. Having knowledge of the illegal purposes of the Action and of the crimes which accompanied it, his active participation even in the after-phases of the Action make him particeps criminis in the whole affair.

OSTI

Eastern Industries, known as "OSTI," was a running-mate of Action Reinhardt in the so-called final solution of the Jewish problem in the East. OSTI was organized March 1, 1943, and was dissolved one year later. The whole history of this project is clearly described in the report of Johann Sebastian Fischer in a final audit, dated June 21, 1944 (Ex. 491). It was impossible to completely strip the eastern territories of all Jewish property. Some because of its nature could not be removed and some could best be operated by the Reich on the spot. To utilize this unremovable property, OSTI was organized, with a capital of 100,000 Reichsmarks. Of this Pohl held 75,000 and defendant Georg Loerner 25,000. Pohl was Chairman of the Aufsichtsrat,

or Board of Directors, of which Georg Loerner was also a member. Globocnik and Dr. Max Horn were the active managers.

Fischer describes the corporate purposes as follows:

"OSTI had to administer all Jewish property within the territory of the Government-General except cash, jewelry and clothing, and in particular to utilize the manpower of the Jews living in the Government-General for tasks benefiting the Reich."

This involved:

- (1) Utilization of the working capacity of the Jews by erecting industrial plants in the Government-General in connection with the Jewish labor camps.
- (2) Taking over commercial enterprises which had previously been maintained by the SS in the Government-General.
- (3) Taking possession of movable property which was formerly Jewish, especially machines and raw materials. The machines were to be installed in plants and the raw materials to be used.
- (4) Utilization of machines, tools and merchandise formerly Jewish property which had been transferred to non-Jewish ownership.

A partial list of the industries thus administered included a glass works in Wolomin, a peat-cutting plant near Lublin, an iron foundry, a large textile factory, a plant for the manufacture of brushes, and a stone quarry. Globocnik states that the entire manpower was brought together and kept in closed camps into which the manufacture of essential items for war had been transferred.

".... All together 18 establishments had been built up and still more were to be added. About 52,000 laborers were available."

The project continued as long as the supply of Jewish concentration camp labor was available, but when, due to the exigencies of the war, in the fall of 1943 this labor supply was withdrawn, it was determined to liquidate OSTI, and Dr. Horn was designated as liquidating officer.

As will be observed, OSTI was simply another manifestation of the policy of slave labor and appropriation of private property. Linked with Action Reinhardt, it was the consummation of the Reich plan to leave the occupied eastern countries as vast stretches of scorched earth. In the OSTI phase of this plan, Pohl had even a more direct connection than he had with Action Reinhardt. Here he was the directing head and the chief executive of the project. As an original incorporator he was in it from its inception and he actively participated in every phase of it until its liquidation. This being true, he was guilty of war crimes and crimes against humanity.

Under a plan which was perhaps devised to give some semblance of legality to this inherently lawless plan, Pohl was designated as a trustee of the properties seized in the East and operated by OSTI. This was a strange species of trusteeship. All of the interests of the trustee were violently opposed to those of the cestuis qui trustent. The recognized concept of a trustee is that he stands in the shoes of his beneficiaries and acts for their benefit and in opposition to any encroachment on their rights. Here, however, the trustee was in the service of adverse interests and acted at

all times under an impelling motive to serve those interests at the expense of his beneficiaries. Actually, the trusteeship was a pure fiction. It cannot be believed that it was ever the plan of the Reich to return any of the confiscated property to its former Jewish owners, most of whom had fled and disappeared or been exterminated. The only probative value of this fictitious trusteeship is to furnish another cord to bind Pohl closer to OSTI's criminal purposes.

In an attempt at partial exculpation, Pohl has submitted in evidence (Pohl Ex. 2) a decree, dated February 28, 1933, signed by Reich President Von Hindenburg and Chancellor Hitler, suspending the provisions of the Weimar Constitution, which guaranteed personal freedom, freedom of speech and of the press, the right of assembly, privacy of communication, and immunity from search. The Secret State Police were given almost unlimited power over persons and property, independent of any obligations and free from restraint or review. They became the supreme authority of the land. This tyrannical agency was the partner of WVHA in the administration of the concentration camps. Upon the promulgation of this decree, Germany became a Police State and the liberty and lives of all German citizens were dependent upon the whims of men like Heydrich and Kaltenbrunner. It is to be assumed that if this is the kind of national government the people of Germany preferred, they were entitled to it. If they consented to surrender their human liberties to a police force, that was their privilege, and any outsider who intruded

could well be told to mind his own affairs. But when the attempt is made to make the provisions of such a decree extra-territorial in their effect and to apply their totalitarian and autocratic police measures to non-Germans and in non-German territory, they thereby invaded the domain of international law, where reason still rules. The Nazi leaders, drunk with power, could abuse and deceive the German people just as long as the German people submitted, but when they extended their tyranny into foreign lands and attempted to justify it by the provisions of local German law, their arrogance became over-extended and a power superior to Hitler's came into play to stop them.

In recapitulation and upon the findings of fact heretofore made, the Tribunal determines that the defendant Pohl is guilty of war crimes and crimes against humanity, as alleged in Counts II and III of the Indictment.

COUNT IV

The Tribunal finds that the defendant Pohl was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under Count IV of the Indictment.

AUGUST FRANK

This defendant joined the SS as a private on May 1, 1932, and joined the National Socialist Party on January 1, 1933. In 1933, the concentration camp at Dachau had a number of minor industries manned by inmate labor, most of which were concerned with concentration camp maintenance. From 1933 to 1935, this defendant was engaged in minor administrative duties in these comparatively small enterprises. In 1935, at the request of the defendant Fohl, this defendant became SS Administrative Officer of the Special Duty Troops (SSVT) and of the SS Death Head Units, which were charged with the guarding of the concentration camps. His jurisdiction in this second capacity was somewhat limited because Kaindl was the special liaison officer for the Death Head Units. In February 1940, this defendant became Chief Supply Officer of the Waffen-SS and Death Head Units under Pohl and, when the WVHA was organized in 1942, he became Pohl's Deputy Chief of WVHA and Chief of Amtsgruppe A, the administrative amtsgruppe of WVHA. He served in this capacity until September 1, 1943, when he was permitted to resign to become Administrative Chief of the Order Police, which terminated his connection with the WVHA. In this case we are concerned with judging his conduct only between September 1, 1939, and September 1, 1943.

Amtsgruppe A, of which Frank was the Chief was the administrative branch of WVHA. It comprised five amts, as follows:

Amt A I - Office of Budgets
Amt A II - Finance and Payroll
Amt A III - Legal Matters
Amt A IV - Auditing Office
Amt A V - Personnel

Only two specifications in Counts II and III of the indictment are involved in the consideration of Frank's case - (1) the administration of concentration camps, and (2) Action Reinhardt.

At the outset it is best to dispel an illusion, which all defendants have tried to create, that the component amts and amtsgruppen in the WVHA were dissociated and isolated and operated with almost complete independence of each other. The contention of the defendants has been that each amt occupied a secluded cubicle which was so insulated that it was practically impossible for the members of one amt or amtsgruppe to know what was going on in another. This concept runs counter to the whole idea behind the organization of the WVHA, which was to consolidate and unify all the administrative functions of the SS. Not only the underlying plan of the organization but the nature of its functions make this contention entirely incredible. The administration of the concentration camps was a complex and intricate task, which was made further involved by the operation of the industries under Amtsgruppe W. Correlation and coordination were indispensable. Food, clothing, wages, labor supply, raw materials, financing, auditing, personnel and security - all these were integrated functions, each of which bore an intimate relation to every other. As a comprehensive undertaking, it was a unit. With a personnel at the peak of about 1700, it was obviously impossible for each person to know exactly what the other was doing, but each person must have known that the entire group was taking some part, great or small, restricted or unlimited, in the main task of administering the fiscal affairs of the SS. For example, the work of Amtsgruppe C in concentration camp construction and maintenance necessarily impinged

upon Amtsgruppe A, which provided the money, Amtsgruppe B, which provided the raw material, and Amtsgruppe D, which provided the labor. Again, Amtsgruppe D, which was directly in charge of concentration camps, was dependent upon Amtsgruppe A for money and personnel, upon Amtsgruppe B for food, clothing and billets, and Amtsgruppe C for construction and maintenance needs. As early as November 1941, Pohl suggested that meetings of all the W office chiefs be held periodically "to bring up for discussion all matters of general interest." Accordingly, Maurer issued an invitation to all the chiefs of W offices to attend a meeting on November 17th "in order to discuss questions and matters which concern all Amts chiefs and which can serve as suggestions for them." Georg Loerner, Hohberg and Volk were present, among others. Again, in September 1943, Pohl called a meeting of W office chiefs, at which defendants Georg Loerner, Baier, Bobermin, Mumenthey, Klein and Volk were present with others. Pohl announced that the meeting had been called because it had been noticed that following the removal of some of the Amts from Berlin "regular cooperation between the staff and the offices is not always assured. It is necessary more than ever before to cooperate very closely with the staff."

The isolation for which the defendants contend was in the very nature of things a myth, and every person in the organization must have known that the WVHA was charged with two tremendous and related tasks - the economic administration of the concentration camps and the operation of the W industries with the labor supply which the camps furnished. Had the various defendants been shrouded in the profound ignorance which each claims, Pohl never could have run the WVHA with anything near

the outstanding success which he achieved. The whole organization would simply have fallen apart for lack of cohesion.

What part, then, did the defendant Frank have in this industrial empire - an empire in which the chief problem of industry was adroitly solved by locking its labor supply behind barbed wire and paying it nothing? A man of more limited genius than Pohl could hardly have failed under those circumstances to show a profit.

First of all, Frank must conclusively be convicted of knowledge of and active and direct participation in the slave labor program. It cannot be imagined that he believed that all the inmates of the 20 concentration camps and the 165 labor camps scattered throughout the entire continent of Europe were German nationals, composed of habitual criminals, anti-Nazi and asocial persons, and others whom the Reich for security purposes thought best to imprison. He could not have been ignorant, for example, of Pohl's letter of June 26, 1942, to all amtsgruppen, stating that the head of every branch office which was provided with prisoners or prisoners of war for work was responsible for the prevention of escape, robbery and sabotage. He could not have been ignorant (because he himself dictated it) of Pohl's letter of July 28, 1942, to Himmler, discussing the commanders of many of the concentration camps and their qualifications and making recommendations for reassignments, detachments and promotions. As an incorporating partner with Georg Loerner in the leather and textile enterprise at Dachau, with an investment of 10,000 Reichsmarks which he protests came from some unknown source, Frank must have known that by April 1, 1941, 700 inmates of Ravensbruck were employed. When, in September 1942, Frank wrote to the garrison administra-

tors at Lublin and Auschwitz and directed that the Jewish star be removed from the garments of deceased inmates, he must have been aware that the concentration camps were not populated exclusively by Germans. His testimony as a witness in his own behalf negatives any such ridiculous inference. It must be concluded, therefore, that Frank knew that the slave labor was being supplied by the concentration camps on a tremendous scale. It must also be conclusively presumed that Frank knew that slavery constituted a crime against humanity.

As to Action Reinhardt, his connection is equally obvious. His counsel protests that "he did not work for the political aims of National Socialism." The answer to this is that he had to work for those aims. Germany was a one-party political state; National Socialism was Germany. The party and the Reich were so inseparable, their aims and purposes were so interwoven, that it was impossible for anyone to have worked for the one without working for the other. It is futile to claim that the program of extermination of the Jews, or the ravaging of the eastern countries, or the program of enforced slave labor, or the devastation of conquered territory, stemmed from National Socialist policy but not from the Reich. The SS, in which Frank attained the high rank of Obergruppenfuehrer, was a National Socialist agency, and anyone who worked, as Frank did, for eight years in the higher councils of that agency cannot successfully claim that he was separated from its political activities and purposes.

It is his contention that he first became aware of the Jewish extermination program after hearing Himmler's Posen speech of October 4, 1943, a month after he had left the WVHA. It is his contention that, through the long series of acts relat-

ing to the disposition of the proceeds of Action Reinhardt before that date, he acted in the belief that the hundred million Reichsmarks of Jewish property, the 2,000 carloads of textiles, and the staggering amount of other loot arose from Jewish inmates who had died of natural causes and in the ordinary course of events. The very magnitude of the inventory would have put a person much less naive than Frank on inquiry, and, of course, Frank's designation of the loot as "Jewish concealed and stolen goods" indicates a resort to secrecy and subterfuge which is entirely in conflict with his profession of innocent ignorance. But even if we were to give Frank's contention full faith and credit (which we do not), we come to the inescapable conclusion that if he was not a confederate in murder he certainly was in larceny. By what process of law or reason did the Reich become entitled to one hundred million Reichsmarks' worth of personal property owned by persons whom they had enslaved and who died, even from natural causes, in their servitude? Robbing the dead, even without the added offense of killing, is and always has been a crime. And when it is organized and planned and carried out on a hundred-million-mark scale, it becomes an aggravated crime, and anyone who takes part in it is a criminal.

It is Frank's contention that he did not know and had no means of knowing of the Jewish extermination program or that the vast amount of property accruing from Action Reinhardt resulted from the violent killing of Jews in concentration camps. He states that he believed that the property came from Jews who had died from natural causes, the number of whom was greatly increased by epidemics, or from stock piles of merchandise seized during the invasion of the eastern countries. Both the amount

and the nature of the goods seized make the acceptance of such a contention impossible. In a top secret communication to the chiefs of administration at Lublin and Auschwitz, dated September 26, 1942 (Ex. 472), a year before Frank left the WVHA, he speaks of the utilization of the property "of the evacuated Jews," and, as has been noted, refers to the goods as "originating from thefts, receiving of stolen goods and hoarded goods." He proceeds to specify the manner of distribution of the confiscated property, referring to the various articles by name. These are some of the articles which he claims to have assumed were seized from Jews who died from natural causes in concentration camps: Alarm clocks, fountain pens and mechanical pencils, electric razors, flashlights, feather beds, quilts, umbrellas, walking sticks, thermos jugs, baby carriages, table silver, bed and table linen, and furs. It is difficult to imagine a convoy of Jews from the East, packed so tightly into freight cars that many died, carrying with them for their comfort and convenience such items as electric razors, feather beds, umbrellas, thermos jugs and baby carriages. It is equally incredible that they would be able to keep such articles in the concentration camps until they died of natural causes. It is fair to assume that the prisoners who froze to death or who died from exhaustion and exposure were not equipped with feather beds, quilts and woolen blankets. Nor can it be believed that before being herded off to Auschwitz or Lublin they were given an opportunity to gather up their collections of old coins and stamps with which to amuse themselves during their idle time.

The fundamental question now arises as to Frank's criminal responsibility for the hundreds of thousands of murders

which were perpetrated in the concentration camps and which were followed by the wholesale confiscation of the property of the dead men. Assuming that Frank ultimately heard of the extermination measures, can it be said as a matter of law that his participation in the distribution of the personal property of the inmates exterminated makes him a participant or an accessory in the actual murders? Any participation of Frank's was post facto participation and was confined entirely to the distribution of property previously seized by others. Unquestionably this makes him a participant in the criminal conversion of the chattels, but not in the murders which preceded the confiscation.

We therefore cannot find from the proof that the defendant Frank is in law guilty of the murders of the Jews in the concentration camps, but we do find that he was guilty of participating and taking a consenting part in the wholesale looting which was described as Action Reinhardt.

Therefore, on two specifications - the slave labor program, heretofore described, and the looting of property of Jewish civilians from the eastern occupied countries - we find the defendant Frank guilty of war crimes and crimes against humanity.

COUNT IV

The Tribunal finds that the defendant Frank was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under Count IV of the Indictment.

HEINZ KARL FANSLAU

This defendant joined the National Socialist Party and the Allgemeine-SS on July 1, 1931. On March 1, 1938, he became a member of the SS Special Units, which later came to be known as the Waffen-SS. In this organization he ultimately attained the rank of Brigadefuehrer (Brigadier General). In January 1934 he became an auditor in the SS Central Administration Office at Munich. Between that date and the organization of the WVHA in February 1943, he held various administrative posts in the SS organization, with the exception of the period from December 1, 1940 to September 30, 1941, during which he was Commander of the Supply Battalion of the SS Viking Division at the front.

Within the organization of the WVHA, he was Chief of Amt A V, the Personnel Office, and, upon Frank's resignation in September 1943, Fanslau succeeded him as Chief of Amtsgruppe A, the chief administration office of the WVHA. As Chief of Amt A V, Fanslau's personnel work involved replacements, recruiting, discharges, promotions, assignments and transfers. Within this field he dealt indiscriminately with the Waffen-SS personnel and also with that of the concentration camps. Although he did not have the power to actually appoint camp commanders, he did make recommendations to Himmler or to the Main Personnel Office, through Pohl, for their transfer, appointment or promotion, and he personally signed orders transferring camp commanders (Exs. 716, 720).

Much of the comment in this judgment as to the defendant Frank is equally applicable to the defendant Fanslau. As the officer in charge of personnel, he was as much an integral part of the whole organization and as essential a cog in its operation as any other of Pohl's subordinates. He was in command of one of the essential ingredients of successful functioning. This has no relation to "group condemnation," which has been so loudly decired. Personnel were just as important and essential in the whole nefarious plan as barbed wire, watch dogs and gas chambers. The successful operation of the concentration camps required the coordination of men and materials, and Fanslau to a substantial degree supplied the men. He was not an obscure menial; he was a person of responsibility and authority in the organization, who was charged with and performed important and essential functions. As Chief of Amtsgruppe A after Frank's resignation he occupied a dominant position right near the top of WVHA. His claim that he was unaware of what was going on in the organization and in the concentration camps which it administered is utterly inconsistent with the importance and indispensability of his position. Whether or not he was aware of the cold-blooded program of extermination of useless concentration camp inmates, he must have been aware that millions of human beings had been herded into concentration camps in violation of all their rights and solely because Germany needed their labor, to work under the most inhumane circumstances.

The Tribunal finds without hesitation that Fanslau knew of the slavery in the concentration camps and took an important part in promoting and administering it. This being true, he is guilty of war crimes and crimes against humanity.

Evidence was introduced that while defendant Fanslau was in command of the Supply Battalion of the Viking Division, which was engaged in the campaign against Russia in the Ukraine, a number of atrocities were perpetrated against the Jews in the vicinity of Tarnapol by the troops under Fanslau's command. The character of this proof has made the Tribunal reluctant to accept it as true beyond a reasonable doubt. The evidence as to Fanslau's participation in these events was almost entirely hearsay and rumor, sprinkled with conclusions. Only the witness Otto claimed to have personal knowledge upon which to base his testimony. In view of the history of this witness, medical and otherwise, the Tribunal is unwilling to accept his testimony as true, especially when related to such a serious accusation. The number of military units which were present on the occasion - SS Einsatzgruppen, SD troops, Wehrmacht members, Ukrainian Police, and others - make identification of the actual perpetrators unreliable.

The Tribunal therefore finds that no criminal responsibility attaches to defendant Fanslau's conduct as an officer of the Viking Division.

COUNT IV

The Tribunal finds that the defendant Fanslau was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under Count IV of the Indictment.

HANS LOERNER

Defendant Hans Loerner joined the National Socialist Party on January 1, 1932, and the Allgemeine-SS on April 1, 1933. He served as an administrative officer of the Allgemeine-SS until he was transferred to the Waffen-SS in October 1939, being later transferred to the Central Administration Office at Berlin, where he became a subordinate of Pohl as a personnel officer. He ultimately attained the rank of Obersturmbannfuhrer (Lieutenant Colonel) in the SS. Upon the organization of WVHA in 1942, he was appointed Chief of Amt A I, the Office of Budgets. In April 1944, when Gustav Eggert, Chief of Amt A II, was transferred to a field unit, Amts A I and A II were combined, and Loerner became Chief of both Amts. Amt A II was concerned with finance and payroll matters. In the summer of 1944 he became Deputy Chief of Amtsgruppe A.

It is Loerner's contention that, with the adoption of the open budget at the beginning of the war, his duties greatly diminished and subsequently all but disappeared, and that the only substantial task left for him to perform was the simplification of the Todt Organization, to which most of his time was devoted. The fact remains, however, that Loerner continued to perform important administrative duties in connection with his amt all through the war. It is hardly conceivable that he would have been retained as head of an office which had entirely lost its usefulness. On May 11, 1942, Loerner and Frank conducted negotiations for six days with the Reich Minister of Finance on the SS budget, involving the number, rank and salaries of personnel. In September 1942 Loerner rendered a report to the Reich Court of Accounts, stating that seven collecting camps for "undesirable Polish elements" near Danzig had already

been established. He further reports that construction of a much larger camp, Stutthof, was begun at the end of 1939.

In October 1942, Loerner wrote that Himmler had ordered the Ahnenerbe to establish an Institute for Scientific Military Research, the expenses of which were to be met from funds of the Waffen-SS, and instructed that "bills due were to be handed in to this office for payment." In November 1942, Sievers, who was one of the principals in the Ahnenerbe program, notes that he had discussed in detail with Loerner the plan to have the expenses of the Institute for Scientific Military Research met by the SS. The Institute referred to was a part of the over-all plan for using concentration camp inmates for medical experiments, but there is no evidence that, either through Sievers or otherwise, Loerner became aware of the criminal purposes of the Institute.

During 1942 and 1943 Loerner was greatly concerned with the fixing of wage scales for the Waffen-SS. In connection with the concentration camps, Kaindl, and later Berger of Amt D IV, Concentration Camp Administration, assembled the budget items for the concentration camps and passed them on as part of the entire budget of the Waffen-SS to Loerner in Antsgruppe A, who reviewed it and put it in shape to be transmitted to the Main Department of Finance in Berlin.

After Loerner took over the control of Amt A II, his connection with the administration of the concentration camps became even more intimate, for here he was confronted by problems of financing and meeting payrolls. Eichele, who was Paymaster of the Waffen-SS, with an office in Dachau, states (Ex. 514):

"In my work in the pay office I was subordinate to Amts A I and A II of the WVHA, of which Hans Loerner was the head."

Requisitions for wages for SS personnel were made to Loerner in Office A I. In the establishment of wage scales for concentration camps, Pohl ordered that Loerner be consulted.

From this proof it becomes quite apparent that the defendant Hans Loerner was anything but a figurehead in the WVHA. In spite of the diminishing importance of his office, he continued until the end to exercise vital and important functions within the structure of the WVHA in connection with its administration of the concentration camps. He was more than a mere bookkeeper. He exercised discretion and judgment and made important decisions, many of which related directly to the procurement and operation of concentration camps. To say the least, he took a consenting part in and was connected with the operation and administration of the concentration camps, which, as has been already pointed out, operated with a program of slave labor throughout the war.

By reason of his direct and intimate association with this program, defendant Hans Loerner must be deemed to be guilty of war crimes and crimes against humanity.

The evidence upon which it is sought to criminally implicate the defendant Hans Loerner in Action Reinhardt is in the opinion of the Tribunal insufficient to justify a conclusion of guilt on this specification.

COUNT IV

The Tribunal finds that the defendant Hans Loerner was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under Count IV of the Indictment.

JOSEPH VOGT

The date at which Vogt joined the National Socialist Party is uncertain due to contradictions in the proof, but it was either in 1920 or 1937 or 1938. The date of his entry into the SS is also indefinite. In his affidavit he states that he was never a member of the Allgemeine-SS, but his official service record contains the entry, "Oct. 1, 1936, entry into Allgemeine-SS." In any event, it is clear that he was a member of the Party and of the SS before the war. In the SS he attained the rank of Standartenfuehrer, or Colonel. Between 1936 and 1942, he served as an auditor, or in some related capacity, in various SS offices, and when WVHA was organized in the spring of 1942, he became Chief of Amt A IV, the Office of Audits, under the defendants Frank and Fanslau, in which office he continued until the surrender. Certain departments of the SS were excluded from the auditing functions of Vogt's amt. Amtsgruppe C, the main construction office, had its own separate auditing service under defendant Eirenschmalz in Amt C VI; Amtsgruppe W, the economic enterprises, was independently audited; expenses for medical and welfare service were not audited by Vogt's amt, as was also true of the SS paymaster's office in Dachau. Only the stationary units of the Waffen-SS were subject to audit by Amt A IV; all mobile units were subject to audit by the Army Administration, and all SS offices in the occupied territories were independently audited on the spot. Amt A IV did audit the receipts and disbursements of about 300 garrison cashiers, together with the records of Amtsgruppen A, B and D of the WVHA. Vogt's duties never transcended those of an auditor. He was never a financial director; he did not authorize purchases, requisition material, direct distribution, order payment, or in any other way control fiscal policy. His sole

task was to inspect and analyze the records (which others had made) of past transactions.

The prosecution seeks to inculcate Vogt on two grounds - that he took a consenting part in and was connected (1) with the mistreatment of concentration camp inmates, or at least in the employment of slave labor in the camps, and (2) with the atrocities incident to Action Reinhardt.

As to the first specification, there is no claim that Vogt was either a principal in or an accessory to the actual mistreatment or enslavement of the concentration camp inmates. The most that is claimed is that because of his position he must have known about them and therefore took a consenting part in and was connected with them. His consent is not objectively shown. He nowhere expresses or implies consent. The only consent claimed arises from imputed knowledge - nothing more. But the phrase "being connected with" a crime means something more than having knowledge of it. It means something more than being in the same building or even being in the same organization with the principals or accessories. The International Military Tribunal recognized this fact when they placed definite limitations on criminality arising from membership in certain organizations. There is an element of positive conduct implicit in the word "consent". Certainly, as used in the ordinance, it means something more than "not dissenting". Perhaps in the case of a person who had power or authority to either start or stop a criminal act, knowledge of the fact coupled with silence could be interpreted as consent. But Vogt was not such a person. His office in WVHA carried no such authority, even by the most strained implication. He did not furnish men, money, materials or victims for the concentration camps. He had no part in determining what the inmates should eat or wear, how hard they should work or how they should be treat-

ed. Nor is there any proof that he knew what they did eat or wear, or how hard they did work or how they were treated. The most that can be said is that he knew that there were concentration camps and that there were inmates. His work cannot be considered any more criminal than that of the bookkeeper who made up the reports which he audited, the typist who transcribed the audit report or the mail clerk who forwarded the audit to the Supreme Auditing Court.

ACTION REINHARDT

In June 1943 there arose some suspicion of financial irregularities in the SS garrison treasury at Lublin, whereupon Frank ordered Vogt to proceed to Lublin to audit the treasury books. During his audit, Vogt came across an "Account R," containing the record of a very large amount of money on hand. Vogt asked Wipporn, Globocnik's deputy, what the account represented and was told that it was a secret which could not be disclosed. Vogt was told later, however, that the money had been confiscated from the Jews and then was shown a trunk full of jewelry and rare coins which was kept in a safe. The next day Wipporn showed him a house stored with clothing which Wipporn said had come from the confiscation. Before leaving Lublin, Vogt complained to Globocnik that the record of this account was not properly kept and that Globocnik did not have proper certificates identifying the owners of the property. He also commented that the Supreme Auditing Court had no notice of the fund and had no opportunity to audit it, as was their right and duty. After some controversy, Vogt and his assistant, Hahnefeld, returned to Berlin and reported to Frank and Pohl, and also to Knebel, a representative of the Supreme Auditing Court.

No further audit of the Reinhardt Fund was made by Vogt, nor does it appear that he ever did anything further in connection with it except to write a letter on March 15, 1944, to all WVHA advisors, asking whether they had any receipts or expenditures in connection with the evacuation of the Jews which had not been settled. This letter was written in pursuance of Pohl's order of December 9, 1943, directing that upon completion of the resettlement operation vouchers were to be presented for audit to Vogt's Amt A IV. Vogt's letter of March 15, 1944, was merely a final check on compliance with Pohl's order.

Except for the audit of June 1943, above referred to, Vogt made no further audit of the proceeds of Action Reinhardt, but subsequent audits were made by Melmer, who had no connection with Vogt or his amt.

It will be observed that this audit by Vogt of the garrison treasury at Lublin was not in performance of his regular duties. It was a special assignment by Frank, impelled by unusual and urgent circumstances which called Vogt aside from his usual duties. It constitutes a single isolated instance in which Vogt came in contact with Action Reinhardt. The question naturally arises, what should Vogt have done under the circumstances to avoid implication in Action Reinhardt? If his single experience amounted to taking a consenting part in or being connected with the felonious project, at least it can be said that he avoided all future experiences. At the time of his audit in Lublin, Action Reinhardt had been in progress for nearly two years and was near the point of conclusion. It was far too late to attempt to stop the launching of the vicious program even if Vogt had had the power to do so. The harm had been done and he could not prevent it. He promptly reported his discoveries to his superiors and severed whatever slight connection he may have had with

the project. He had inadvertently stumbled upon evidence of a crime which had already been committed. Instead of trying to conceal it, he openly uncovered it and had no further connection with it. Again, the Tribunal is impelled to ask, what should he have done? Unless we are willing to resort to the principle of group responsibility and to charge the whole German nation with these war crimes and crimes against humanity, there is a line somewhere at which indictable criminality must stop. In the opinion of the Tribunal, Vogt stands beyond that line.

The Tribunal therefore finds the defendant Vogt not guilty of war crimes and crimes against humanity, as charged in the Indictment.

COUNT IV

The Tribunal finds the defendant Vogt not guilty under Count IV of the Indictment.

GEORG LOERNER

Defendant Georg Loerner joined the National Socialist Party in November 1931 and became a member of the SS the following year. His highest rank in the SS was Gruppenfuehrer, or Major General. In May 1935 he was employed in the administrative office of the SS at Munich, and in the fall of that year he was given the assignment of organizing a department for clothing supply. In May 1939 he was transferred to Berlin, where he carried on the same task of supplying clothing and personal equipment to the SS troops upon requisition of the various units. Until April 1936, clothing for concentration camp inmates was supplied by the several local governmental units. After that date the task of supplying clothing for camp inmates as well as the SS armed units was taken over by the SS Administrative Office, of which the defendant Pohl

was the head. This was Georg Loerner's initiation into concentration camp administration.

When the WVHA was organized in February 1942, Loerner became Chief of Amtsgruppe B, which, among other duties, was charged with the supply of food and clothing to all stationary armed units of the SS (excluding armed forces in the field) and to the concentration camp inmates. In addition, Loerner was Deputy Chief of Amtsgruppe W, which administered the economic enterprises owned or controlled by WVHA. After the defendant Frank left the WVHA in September 1943, he was succeeded by Loerner as Deputy Chief of the WVHA under Pohl.

From these three responsible positions held by Loerner, it will be seen that he was not an obscure subordinate in the WVHA organization. Each of the positions which he held required a broad measure of responsibility, which the documents in the case indicate he exercised in full.

CONNECTION WITH W ENTERPRISES

With Pohl, defendant Georg Loerner was one of the incorporating partners in the German Economic Enterprises, known as "DWB", which was the holding company having control of nearly all of the W Enterprises. He was an original incorporator with the defendant Frank of the leather and textile enterprise at Ravensbruck, and with Pohl was one of the organizers of OSTI, with an initial contribution of 25,000 Reichsmarks. He was also Vice-Chairman of the Board of Supervisors of the Gollerschauer Portland Cement Company, of which Pohl was the Chairman. In addition, he was a director of the Cooperative House and Home Building Company at Dachau. All of these companies were units of Amtsgruppe W, of which Loerner was Deputy Chief under Pohl. His connection with these concerns was much more than formal. He took an active and interested part

in the management of their affairs and his voice was heard in the policy making. For example, in a conference with reference to the affairs of OSTI held on February 13, 1943 (Ex. 61), at which Pohl, Loerner, Volk and Hohberg were present, a series of questions was propounded which Loerner helped answer. The questions were preceded by the statement that the Jewish manpower in the Government General was to be used for armament production. Then the question is asked:

"Must this mandate be regarded primarily from a political-police or from an economical point of view?"

Other questions follow:

"How many Jews live in the Government-General, how are they split up as to sex and professional groups?"

"Who can give information about the nature, extent and location of the existing Jewish movable property?"

"Who is the possessor of the Jewish movable property?"

"How is the Jewish property to be taken over? Under a trusteeship or directly?"

"When are the Jewish enterprises not under the charge of the SS to be taken over, immediately or gradually?"

"Are concentration camps to be established according to the German pattern, which assigns the prisoners to the OSTI and other trustworthy firms?"

These questions were either answered or by-passed at the conference, but the significant point is that Loerner participated in the discussion and knew of the underlying program of OSTI to fully utilize Jewish slave labor in its enterprises. When it was determined to liquidate OSTI in March 1944 because of the withdrawal of its labor supply, Loerner attended the final meeting and signed the minutes with Pohl.

A report by Pohl, dated December 7, 1943 (Ex. 63), of a conference at which Loerner was present, shows that it was agreed that 10 labor camps in the Lublin district should be

taken over by the WVHA as branch concentration camps, as a result of which "the inmates of these labor camps will become concentration camp prisoners." It was further agreed that all other labor camps in the Government General should be taken over by WVHA "in the interest of a general clearing up". As a further measure of control, it was agreed that the police guards acting in the labor camps should be subordinated to the WVHA and taken over by that office "as far as they are members or possible candidates for the SS."

A significant document (Ex. 30) is found in the report of Loerner and others to Pohl, dated January 9, 1942, concerning the proposed acquisition of property for the enlargement of the concentration camp Stutthoff. Pohl had collaborated with others in a detailed study of the proposed plan, which contemplated the housing of "25,000 prisoners, including prisoners of war." Although this plan was never consummated, Loerner participated in it up to the time of its abandonment. A few days later, Maurer reported to Loerner that Pohl had made him responsible for concluding the details and outlined at length his plans for acquiring the property for the concentration camp. If Loerner was only a straw man or a figurehead, it is difficult to understand why Maurer felt impelled to report to him.

Exhibit 414 discloses that on March 3, 1944, Loerner participated in a conference for the preparation of a new wage scale for prisoners, at which it was decided that their wages be fixed at about 75% of the wages paid in private industry. It will be observed again that this has no reference to wages to be paid the workers but only to the amounts to be paid by the industries to the concentration camps. Loerner participated

in the conference to the extent of pointing out that it might be advisable to inquire whether these rates could be paid by the individual plants without loss and suggested that the plant cost sheets be checked.

That Loerner was not regarded as insignificant by Pohl is evidenced by Pohl's letter (Ex. 404) directing that all matters of importance concerning DWB should go to Loerner for his comment and signature before being sent to Pohl and directing Loerner to keep informed on all important developments in the DWB enterprises. The fact that this order was rescinded a short time later is of no consequence. The exhibit indicates that when Pohl wrote it he considered Loerner a responsible person of considerable consequence in the WVHA organization, especially with reference to the W enterprises.

In view of all this proof, Loerner's claim that he was a mere figurehead in the field of the concentration camps and the enterprises which were dependent upon them, falls flat. Whether or not he knew of the mistreatment and extermination of the prisoners has not been conclusively proved, although there is substantial ground for suspecting that he could not have avoided knowing it. It is undoubtedly true that he knew of the Reich policy of furnishing slave labor from the concentration camps to the vast area of industrial enterprises which were, at least in part, under Loerner's supervision. When Berger, of Office D IV, reported to Loerner on August 15, 1944 (Ex. 73), that there were then over 500,000 prisoners in concentration camps and that over 600,000 more were expected immediately, Loerner must have known, and the Tribunal finds that he did know, that these inmates were slaves who had been

snatched from their homelands and herded into concentration camps to further the German war effort. Loerner must have gleaned some knowledge from the list of expected new arrivals which Berger furnished him, as follows:

"1) from the Hungary Program (Jewish Campaign)	90,000
2) from Litzmannstadt (Police prison and Ghetto)	60,000
3) Poles from the General Government	15,000
4) Convicts from the Eastern Territories	10,000
5) former Polish officers	17,000
6) from Warsaw (Poles)	400,000
7) current arrivals from France apprx. 15,000 to	<u>20,000</u>
	612,000"

Assuming that mere knowledge is not sufficient to inculcate Loerner, it nevertheless appears conclusively that, in addition to knowing of the slave labor program, he helped administer it in an active and responsible fashion. His connection with the program was not remote or intangible; it was direct and vital. The fact that he knew that prisoners of war were also being enslaved and compelled to perform labor on war munitions in violation of the Hague and Geneva Conventions, only adds to his guilt. As an old veteran of World War I, he more than others should have realized that there are certain rules of warfare which should be observed by all civilized nations and that one of the foremost of these rules was being violated under his very nose and with his help and connivance.

Supply of Food and Clothing to Concentration Camps

The first duty which a slave owner owes to his serfs is to feed, shelter and clothe them properly. His own self-interest in maintaining their working capacity would seem to dictate no less. The story of the starvation and suffering of the concentration camp inmates, of their being beaten and

abused and worked to death, is an old one and it would be idle to repeat it here. That they were under-fed and ill-clothed has been repeatedly proved before these Tribunals. The immediate question confronting this Tribunal is whether or not Loerner was responsible for these appalling conditions. It is to be observed that the supplying of concentration camp inmates was not his only duty. In addition he was required to supply the garrisons, guards and other stationary units of the Waffen-SS. It is obvious, we think, that no one had the right to provide for one group at the expense of the other, especially when such deprivation was carried to the extent of freezing and starvation. The Tribunal is well aware of the fact that the blockade of Germany and the military reverses which followed the surrender at Stalingrad made the problem of procurement of food and clothing an increasingly acute one, but we are also aware that even before Stalingrad it was the policy of the Reich to feed and clothe concentration camp inmates only to an extent which would permit them to keep on working.

WVHA was the top agency for the administration of the concentration camps and the task of administration was a comprehensive one. If WVHA was concerned with the last details of prisoners' wages, production and allocation, it was also concerned with furnishing food and clothing for prisoners, and this obligation carried down to the final step of distribution - actually seeing to it that the prisoners got the necessary supplies. The duty of administration goes that far. Clothing which is ordered or requisitioned but not delivered does not keep men from freezing. Loerner's office was not charged with labor allocation; but that did not prevent his going to Dachau

in April 1941 to address a conference of labor allocation officers. In August 1944, Loerner was advised by Berger that with an immediate prospective camp population of over a million, he did not have sufficient clothing to supply their needs, in spite of having seized large amounts of civilian clothing in Hungary and Poland. Loerner was more than a mere purchasing agent or requisition clerk. He was a top-level administrative officer in charge of clothing supply, with all that the term implies. Pohl in an affidavit filed in the case (Ex. 523) states:

"It was the responsibility of Loerner to assure the provision of clothing to the concentration camp inmates."

Fanslau corroborates this statement in his affidavit (Ex. 6):

"Georg Loerner was in the last resort responsible for the procurement of clothing for the prisoners."

Loerner's defense is the typical one: "That was the duty of someone else." He testified that all he could do was to receive the requisitions for clothing from Amtsgruppe D and process them by sending them to the SS clothing factories at Dachau. But the obligation of his responsible office did not end there. The industries in which he was so active as incorporator, director and supervisor and to which he gave so much time and effort were the principal users of inmate labor. Both as an employer and as a supply officer it was his duty to see to it that the inmates were supplied with adequate clothing. It is not sufficient for him to say, "Well, I've ordered clothing. That's all I'm supposed to do." The lives of thousands of men depended on his doing more than that.

Action Reinhardt

The evidence concerning Loerner's connection with

Action Reinhardt is not sufficient to convict him on this specification. There is some proof from which it may be reasonably inferred that he had knowledge of property being confiscated from Jews, but there is nothing which shows with the requisite degree of certainty that he knew that such property had been taken from Jews who had been killed in concentration camps or in pursuance of the extermination policy. Pohl stated in an affidavit that Loerner had prepared for his signature a "report on the realization of textile salvage from the Jewish resettlement" (Ex. 479). An order from Pohl (Ex. 481), which was distributed to Antsgruppe B among a number of others, refers to "Administration of Jewish Property" and has a file note reading, "Reinhardt Prisoners Journal," but the order refers only to auditing procedure. There are other bits of proof on this subject, but in the aggregate it is insufficient to justify a determination beyond a reasonable doubt that Loerner took a consenting part in or was actually connected with the action itself.

On the grounds herein indicated and for the reasons specified, the Tribunal finds the defendant Georg Loerner guilty of war crimes and crimes against humanity, as charged in Counts II and III of the Indictment.

COUNT IV

The Tribunal finds that the defendant Georg Loerner was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under Count IV of the Indictment.

ERWIN TSCHENTSCHER

Tschentscher was born in Berlin on February 11, 1903. He attended public and higher schools in Berlin and finished his educational career in 1919. He was a professional soldier, having joined the Allgemeine SS as a private on May 1, 1930, with the SS No. 2447. He joined the Waffen-SS at the beginning of the war on October 1, 1939 with the rank of Standartenfuehrer. He joined the NSDAP on December 1, 1928 with the party No. 102547. After completing a number of assignments with the SS on November 30, 1940, he was transferred to the SS Viking Division, which was then being activated. He was placed in command of the Economic Battalion, consisting of the Supply Office and the Bakers and Butchers Companies, and was directly subordinate to the defendant Fanslau. During the period of activation and training of this unit it was a part of his duties to give lectures to the troops. Among other topics discussed in these lectures, Tschentscher explained the ideology of the SS on the Jewish question, racial theories, the SS marriage program, and other military and political subjects. He stated in these lectures that "the Jews were a foreign body within the community of the German people and that the solution of the Jewish question was to be that the Jews should disappear from Germany, should permanently settle in other countries or be placed in concentration camps and places like that." Thus, it may be seen that he was thoroughly familiar with the aims of the SS and was willingly participating in planning and carrying out its program.

About the middle of June 1941, the Division having completed its period of training and activation, moved into the area of Lublin in Poland. Tschentscher actively engaged in the first Russian campaign, from about the first of July until the 31st of December 1941, when he was transferred to Obersalzberg.

During this campaign, he was battalion commander of the supply column, as well as company commander, and directly subordinate to the defendant Fenslau. While his command was in the area of Eastern Poland and in the Ukraine, thousands of Jewish civilians and other non-combatants were ruthlessly murdered and exterminated. There is evidence to the effect that members of Tschentscher's command engaged in this program, together with Einsatzkommandos Units. These murders and atrocities took place particularly in the vicinity of the Ukraine. There is hearsay evidence that Tschentscher personally participated in these crimes, but there is no direct evidence to this effect. There is some evidence that he had constructive knowledge of the participation of members of his command, but absolutely no evidence that he had actual knowledge of such facts. He emphatically denies participation in and all knowledge of these matters.

The law of war imposes on a military officer in a position of command an affirmative duty to take such steps as are within his power and appropriate to the circumstances to control those under his command for the prevention of acts which are violations of the law of war. The Supreme Court of the United States pointed out in a decision entitled "Application of Yamashita", 66 Supreme Court 340-347, the following:

"It is evident that the conduct of military operations by troops whose excesses are unrestrained by the orders or efforts of their commander would almost certainly result in violations which it is the purpose of the law of war to prevent. Its purpose to protect civilian populations and prisoners of war from brutality would largely be defeated if the commander of an invading army could with impunity neglect to take reasonable measures for their protection. Hence the law of war presupposes that its violation is to be avoided through the control of the operations of war by commanders who are to some extent responsible for their subordinates."

The reason for the rule is plain and understandable, but what has been said in this decision does not apply to the defendant Tschentscher. Conceding the evidence of the prosecution to be true as to

the participation of subordinates under his command, such participation by them was not of sufficient magnitude or duration to constitute notice to the defendant, and thus give him an opportunity to control their actions. Therefore, the Tribunal finds and adjudges that the defendant Tschentscher is not guilty of participating in the murders and atrocities committed in the Russian campaign as alleged by the prosecution.

Tschentscher's Activities in the WVHA

On October 1, 1943, the defendant was transferred to the WVHA and was appointed Chief of Amt B-I of Amtsgruppe B; shortly thereafter he was appointed deputy to Georg Loerner, Chief of Amtsgruppe B. He stated that his duties and responsibilities as Chief of Amt B-I consisted of the following: all matters pertaining to food concerning the Waffen-SS and the police at home, roughly for about 1,000,000 men. His duties also comprised the negotiations with the Army Administrative Office, in order to fix the food rations for the troops. His office also worked on the planning and the actual delivery of the food, the earmarking of the rations, and their supply to thirty troop storage plants which were scattered over the Reich. His task was to have the food ready so that it would be collected by the troops. About twenty to thirty thousand concentration camp guards were fed by his office. This particular aspect of his feeding program was done by the troop camp stores in the area where the concentration camps were located. He stated that his office did not have anything to do with feeding and supplying food for concentration camp inmates.

It may be seen from his statements that the only contact his office had with concentration camps was the furnishing of food for the concentration camp guards. He further stated that Burger, Chief of Office D-IV came to see him three or four times for the purpose

of securing certain food for concentration camps. Burger stated that he wanted to have special diet furnished for sick inmates, such as fruit, canned vegetables, and wine, in small quantities which he could not otherwise obtain. He stated that he furnished these articles to Burger but realized at the time that he was exceeding his authority. (R. 3169)

The defendant stated that he visited the concentration camps in a few cases. On one occasion, in 1941, he visited concentration camp Dachau. While there he participated in an inspection of the actual concentration camp, and testified that the barracks were extremely clean and quite fit for human habitation. The inmates kitchen, the hospital, the dental station, were very modern and other installations, such as the bakery shop, the carpenter shop, and work shops, were all in excellent condition. The inspection lasted about an hour and a half, and was conducted by five or six SS leaders. (R. 3177-78)

Towards the end of 1944 he visited Buchenwald concentration camp for the purpose of obtaining a storage room for food. He saw some inmates marching past, but saw nothing that would attract attention. (R. 3179)

In November 1943, in company with Kemmler, Chief of Amtgruppe C, he made an inspection of concentration camp Dora, where two construction places were visited. Two large tunnels about 3 kilometers long had been built into the mountain. During these inspections, Pister, Commander of Buchenwald, Foerschener, the Commander of Dora, Barnewald, the administrative officer, and Dr. Schiedlausky, the camp physician of Buchenwald, were present. Tschentscher described the conditions as follows: clothing was insufficient, especially for cold weather, barracks were inadequate, the air was very bad from lack of ventilation. The inmates, approximately 1500 to 2000, were housed in the shafts of tunnels which were eight to twelve meters

high. The inmates slept on bunks, four on top of each other, and had insufficient covers. The lighting system was extremely bad and caused the inmates to appear to have dust from the stones covering their faces. The food was insufficient for the work to be performed. Medical care was also insufficient, as the camp did not have its own physician and the personnel consisted of inmates who were only medical assistants. A great many of the inmates were reported sick, and on that day sick call amounted to forty inmates. He further stated that deaths did not occur in the beginning, but later he heard that inmates had died probably as a result of exhaustion and colds. He stated that he did not need any confirmation of this fact when he saw the people, because when he saw them it was rather unnerving. He further concluded that when an epidemic occurred a catastrophe might follow because of the low resistance of the inmates. The defendant stated that when he saw these conditions his only thought was to help them as quickly as possible. On the following morning he made another short inspection and what he observed only confirmed his conclusions. He returned to Berlin and gave immediate instructions to the various depots to turn over food from the storage warehouses. He stated that he also contacted Office B-II for clothing, and the Reich physician SS for medical supplies. He urgently requested that a physician be assigned and that medical personnel of the SS be furnished. He telephoned the main medical depot at Berlin, asking them to allocate medicine and disinfectants for the camp. He stated that he received the cooperation which he desired from all of these agencies, and that from his depots he furnished twenty to thirty tons of food, -- flour, peas, beans, canned meat, oils, fats, dehydrated fruits and rice, supplementing regular rations. In addition, he furnished post exchange items, rum and tea, as well as cigarettes and toilet articles. He then made the following significant statement:

"It was our specific intention that these people be able to recover somewhat so that they would regain a better physical condition and be able to perform their work better."

He stated that he made a written report to the Defendant Pohl concerning this inspection, together with his recommendations. (R. 3186-3193)

The defendant admitted that approximately three or four weeks after the Dora inspection he was again requested to send additional food, which he did. He stated that upon Kammler's request he also sent food to a camp near Linz (R. 3194-5)

The defendant was asked:

Question: "Did your department maintain and supervise training kitchens at Oranienburg, Dachau, and Beneschau?"

Answer: "We had three training kitchens, one at Dachau, one at Oranienburg, and a third one located at Beneschau, near Prague. These three training kitchens were also subordinated to me. I was the immediate superior; and I visited these three kitchens. I supervised and directed the training curriculum there."

The courses at these training kitchens included instructions as to how not to prepare food. (R. 3236)

He testified that Office B-I was dissolved in April 1945, owing to the condition of the war. When asked if he participated in the destruction of the records of Amt B-I, he answered:

"Before we left Berlin we destroyed superfluous files, which was a routine matter and an order. The remaining files we took with us to the mountains. We burned them there." (R. 3254)

He stated that the records were destroyed for the purpose of keeping them from falling into the hands of the enemy. He denied any knowledge of prisoners of war and nationals of other countries being confined in the concentration camps. He denied all knowledge of the "Reinhardt Action", and the program for the extermination of the Jews, of the medical experiments which were conducted in the concentration camps, of the Euthenasia Program, and of inhumane

treatment and atrocities. He offered documents and the testimony of the witnesses Walter Hoyer and Arnold Ertel in corroboration of his contentions.

The Tribunal concludes that the defendant Tschentscher was not a mere employee of the WVHA, but held a responsible and authoritative position in this organization. He was Chief of Amt-B-1, and in this position had large tasks in the procurement and allocation of food. Conceding that he was not directly responsible for furnishing food to the inmates of concentration camps, he was responsible for furnishing the food to those charged with guarding these unfortunate people. According to his own admissions, on a number of occasions he furnished food to the inmates when requested to do so by those in authority. He contends, however, that he was not competent for this task and only furnished this food from a humanitarian motive. Nevertheless, from his own testimony we conclude that he had other motives as well, when he stated:

"It was our specific intention that these people be able to recover somewhat so that they would regain a better physical condition and be able to perform their work better".

"These people" included slave laborers from occupied territories and prisoners of war.

The Tribunal is fully convinced that he knew of the desperate condition of the inmates, under what conditions they were forced to work, the insufficiency of their food and clothing, the malnutrition and exhaustion that ensued, and that thousands of deaths resulted from such treatment. His many visits to the various concentration camps gave to him a full insight into these matters.

The Tribunal finds without hesitation that Tschentscher was thoroughly familiar with the slave labor program in the concentration camps, and took an important part in promoting and administering

it. The successful operation of the concentration camps required the coordination and cooperation of experts, as well as materials, and Tschentscher, as Chief of Amt B-1, and deputy to Georg Loerner, contributed his share in the allocation of food and clothing.

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that the defendant Tschentscher is guilty of war crimes and crimes against humanity, as charged in Counts II and III of the indictment.

COUNT IV

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that the defendant Tschentscher was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under Count IV of the indictment.

RUDOLF SCHEIDE

The defendant Rudolf Scheide was born on the 24th day of December 1908 in Woldfenbuettel. He attended elementary schools until 1922; from 1926 to 1927 he served one year as an agricultural laborer near Brunswick, and during 1928 and 1929 he was with the voluntary labor service working on private estates. From 1929 to 1930 he did odd jobs for friends near his home, and from 1930 to 1933 he worked in the sugar factories in Schladen, and other places. He joined the NSDAP in 1929, with the Party Number of 93508. He was a member of the SS from 1930 until the end of the War, and had the SS-number 2351. His first rank in the General SS was SS-man, and last rank in the SS was Standartenfuehrer (Colonel). He commanded a motorized company from 1938 until October 1, 1942. At that time his motorized organization became a division, and the defendant became the Division Technical Officer. On October 1, 1942, he was transferred to the Economic and Administrative Main Office, WVHA. When he joined the WVHA on October 1, 1942, he became the Chief of Amt B-V as a technical expert in the field of motor transportation. In the defendant's own affidavit, (Ex. 10), he outlined in detail his duties as Office Chief of Amt B-V of the WVHA. All Motor Transport technical officers were in principle subordinate to the Operational Main Office, formerly the Command H. Q. of the Waffen-SS. Pohl informed him that Georg Loerner was his Chief, and he thereupon reported to Loerner. As Chief of Amt B-V of the WVHA, he took over the whole of the transportation of the WVHA, with the exception of the transports of human beings, which were taken over by D-1. When he came to the WVHA he was commissioned by Gruppenfuehrer Loerner to bring all motor vehicles, weapons and railroad transports under this office, so that everyone who had anything to do with them or with

fuel, oils, tires, etc., was to report to him or to his main office. He was the representative of the Operational Main Office in the WVHA and was in charge of transportation for all the Amtsgruppen. Amtsgruppe A needed no transport space. Amtsgruppe B required transport space continually for forwarding goods to supply and equip the Waffen-SS. Amtsgruppe C had its own quota of motor vehicles from the Operational Main Office, and had the vehicles of the private building firms put at its disposal. Amtsgruppe D constantly ordered motor vehicles from his office, and he passed on the orders to the Operational Main Office. These demands mostly came from Gluecks. He also dealt with the demands for arms and ammunition for the concentration camp guards and passed them on to the Operational Main Office, which in turn gave instructions to the ordnance depot of the Waffen-SS in Oranienburg, where Amtsgruppe D collected these weapons. He never assigned the vehicles for the concentration camps to the camps themselves, but to Schultz who then assigned them to the concentration camps. If concentration camp inmates were shipped in railroad trucks, the preparations were made by the staff of Amtsgruppe D.

The prosecution contends that by virtue of the high office which the defendant held in the WVHA, he was required to furnish the necessary transportation for all the Amtsgruppen of the WVHA, including Amtsgruppe D, which had charge of maintenance and control of the concentration camps.

The prosecution further contends that according to the large field of tasks carried out by the defendant in connection with the various offices and Amtsgruppen of the WVHA, he gained knowledge of how the concentration camps were operated, how the prisoners were treated, who they were, and what happened to them; that the defendant Scheide further knew that the concentration camps engaged in the

slave labor program, and that he furnished necessary transportation in this program with knowledge of its use. The prosecution further contends that the defendant Scheide knew of the mass extermination program carried out by the concentration camps under Amtsgruppe D, and that he furnished Amtsgruppe D in this program with transportation, spare parts, tires, gasoline, and other necessary commodities for carrying out this program.

The defendant Scheide contends that he had no knowledge of any of the activities and programs of the concentration camps, and that there is no evidence other than his own affidavit and his own testimony and that of other defendants as to his duties, responsibilities and activities as Chief of Amt B-V of the WVHA. He further contends that the prosecution has not submitted a single document against the defendant which mentions his name and that no prosecution witness has testified to any facts against the defendant. He further contends that the prosecution has submitted no evidence which would tend to show his individual guilt of the charges contained in Counts II and III of the indictment.

The defendant further contends that the only evidence offered against him is contained in the organizational charts of the WVHA, which shows that he was Chief of Amt B-V of the WVHA.

CONCLUSIONS

After weighing all the evidence in the case, and bearing in mind the presumption of innocence of the defendant, and the burden of proof on the part of the prosecution, the Tribunal must agree with the contentions of the defendant. If the Tribunal were to convict the defendant on the charges contained in Counts II and III of the indictment, the only evidence on the part of the prosecution to sustain such conviction would be the organizational charts of the WVHA, which show (and the defendant admits it) that he was the

Chief of Amt B-V. All of the evidence as to the duties performed by the defendant in this capacity, the responsibilities assumed by him, the connections and influence that he had with other Amtsgruppen, and the knowledge that he had, if any, as to the activities and duties of the other Amtsgruppen, was furnished solely by the defendant himself and other defendants who testified in corroboration of the defendant. Therefore, the Tribunal finds the defendant Rudolf Scheide not guilty of the charges contained in Counts II and III of the indictment.

COUNT IV

The defendant admits that he joined the NSDAP in 1928, and that he was a member of the SS from 1930 until the end of the War. In regard to membership in certain organizations declared criminal by the International Military Tribunal, the following was said:

...."A criminal organization is analogous to a criminal conspiracy in that the essence of both is cooperation for criminal purposes. There must be a group bound together and organized for a common purpose. The group must be formed or used in connection with the commission of crimes denounced by the Charter. Since the declaration with respect to the organizations and groups will, as has been pointed out, fix the criminality of its members, that definition should exclude persons who had no knowledge of the criminal purposes or acts of the organization and those who were drafted by the State for membership, unless they were personally implicated in the commission of acts declared criminal by Article 6 of the Charter as members of the organization. Membership alone is not enough to come within the scope of these declarations."

The defendant admits membership in the SS, an organization declared to be criminal by the Judgment of the International Military Tribunal, but the prosecution has offered no evidence that the defendant had knowledge of the criminal activities of the SS,

or that he remained in said organization after September 1, 1939 with such knowledge, or that he engaged in criminal activities while a member of such organization.

Therefore, the Tribunal finds and adjudges that the defendant Rudolf Scheide is not guilty as charged in Count IV of the indictment, and directs that he be released from custody under the indictment when this Tribunal presently adjourns.

MAX KIEFER

The defendant Max Kiefer was born on the 15th day of September, 1889 in Kampen on the lower Rhine. He graduated from public schools in 1909. Thereafter he studied architecture at Munich and Aachen. During the time that he was engaged in his studies of architecture, a certain amount of his time was consumed with construction jobs of the Reich Railway Inspectorate, as well as taking study trips to Italy, France, Holland and Belgium. In the year 1914 he completed his studies in architecture, was graduated and soon thereafter became City Architect for the City of Aachen.

During World War I, the defendant Kiefer was drafted into military service and served for the entire period of War, being discharged with the rank of Lieutenant in the reserve. After the first world war the defendant pursued his career as an architect, working for the government and later as a private architect, specializing in city planning and housing projects. In 1936 he accepted a position with the Reich Air Ministry as Building Councilor in the Department of Dwellings and Settlements. In this position his immediate superior was Kammler, who was later Chief of Amtsgruppe C of the WVHA. The defendant joined the Allgemeine-SS in July 1935 and the NSDAP in May 1937. When he was called up for military service in August 1941, Kammler intervened in his behalf and was

successful in having him assigned to the Waffen-SS. Later, he was assigned to the Building Section of the Budget and Buildings Office of the WVHA. In February 1942, he was appointed Chief of Office C-II of the WVHA and remained as the Chief of this Office until the close of the War.

In order to properly carry out and maintain the various functions of the WVHA, specialists were required for every field. The defendant Kiefer was a specialist in architecture and his services were in great demand by the WVHA. With his great experience covering a long period of time as a master planner and architect, the Tribunal can easily understand why the defendant Pohl, as Chief of the WVHA, appointed him Chief of Amt C-II, and assigned to him duties which included the planning, maintenance and construction of concentration camps in the Reich and in occupied territories. Amtsgruppe C was the supreme building office of the Waffen-SS, and Office C-II was concerned primarily with Special Construction Tasks. The defendant, as Chief of Office C-II, was also head of the Main Department in charge of general affairs of the Building Inspectorate. Subordinate offices to Office C-II, which were also subordinate to the defendant Kiefer, were as follows:

1. C II/1 Food and Clothing Installations
2. C II/2, Arms, Ammunition and Signalling Installations
3. C II/3, Hospitals and Ambulances
4. C II/4, Industrial Buildings
5. C II/5, Accommodation Center Bureau
6. C II/6, Agriculture and Special Buildings

Despite the fact that none of the other offices within Amtsgruppe C was charged with special construction tasks or any of the constructions outlined above, the defendant contends that these of-

fice titles were only for organizational purposes and not actually concerned with building projects; the projects with which they were concerned were far removed from the realm of construction of concentration camp installations but were for humanitarian objectives. The defendant further contends that Office C II/2 was concerned solely with the coordination of such construction with local zoning and building regulations. He further contends that his office only worked out general basic plans for hospitals and ambulances, and denies that he ever participated in the planning or construction of any hospitals or other buildings, or any concentration camps or concentration camp installations.

The Tribunal does not agree with such contentions. The evidence clearly shows that concentration camp hospitals were constructed, and that plans and drawings for such construction were prepared in the Office C-II. The prosecution offered in evidence Exhibit 662, which was a drawing and plan for a hospital and sick bay for inmates of Auschwitz Concentration Camp. This drawing and plan was signed by the defendant himself. The prosecution also offered in evidence Exhibit 663, which was a drawing and plan signed by the defendant himself for a sick bay for the troops at Auschwitz Concentration Camp. If the defendant and his office was competent to draft and approve such drawings and plans for such installations, the Tribunal may reasonably find that all other installations necessary for the maintenance and construction of concentration camps also emanated from this office. Since the defendant is an expert architect, the Tribunal concludes that the defendant not only planned the construction of such projects at Auschwitz, but that he supervised the progress of construction as any architect would do.

The concentration camps under Antegruppe D of the WVHA operated

and maintained gas chambers and crematoria in which thousands of people were exterminated and cremated. Some of the concentration camps had several of such installations. These installations were planned, erected, and maintained by some competent authority and Amt of the WVHA. Since Amt C-II was the supreme authority for the planning and building of special tasks, the logical conclusion of the Tribunal is that such installations were planned and erected under the authority of Amt C-II of the WVHA. The Tribunal further concludes that the very nature of such installations and their continued maintenance constituted knowledge of the purposes for which they were to be used.

The defendant's knowledge of the classes of inmates in concentration camps is shown by the following testimony of the defendant himself:

"According to my opinion there is a big difference between a political prisoner and a criminal. I myself was definitely convinced that there were political prisoners in the concentration camps, prisoners whom the state wanted to get rid of or at least secure for special reasons. In my opinion the criminals were in the jails, whereas all the other ones were in the concentration camps."
(R. 3387)

The Tribunal finds that the defendant was also aware that inmate labor was used in construction projects authorized and planned by Amt C-II and other offices within Antsgruppe C. He testified that he saw Kammler's letter to Gluecks, dated March 10, 1942, concerning the assignment of prisoners of war, inmates and Jews, to carry out the construction program of Antsgruppe C but that no action was taken because it was not in his field of tasks. (Document No. 1292, Exhibit 56, and Record page 3367). In the preface to this document, the following appears:

"Subject: Employment of Prisoners, Prisoners of War, Jews, etc. to Carry Out the Construction Program of the SS Economic Administrative Main Office, Amtsgruppe C, 1942, in the Third Year of War."

A summary attached to the document shows the required workers listed under the various construction projects and the number of prisoners and prisoners of war, Jews, etc., required to carry out the construction program for 1942. The summary shows conclusively that thousands of inmates, Jews, and prisoners of war, were to be used for construction projects at the various concentration camps. These included construction projects at Ravensbrueck, Oranienburg, Natzweiler, Wewelsburg, Dachau, Gross-Rosen, Auschwitz, Freudenthal, Weimar-Buchenwald, Neuengamme, Flossenbuerg, Geishuebel, Krondorf Sued, Gruen, Neu-Rohlau, Mauthausen, Gasen, Brettstein, Litzmannstadt, and Posen. The last entry in the summary was a request for 5,000 prisoners of war to be used at Danzig-Stutthof. Thus, the defendant Kiefer was officially put on notice that concentration camp labor, Jews, and prisoners of war, were the means whereby his architectural plans were transferred from blueprints into actual constructions. The defendant contends that even though he might have read the document at the time he was totally ignorant of concentration camp conditions.

The Tribunal cannot accept this contention of the defendant. He was directly subordinate to Kammler, Chief of Amtsgruppe C, and was also his Deputy. As to his Deputyship there can be no doubt. Kammler's appointment of the defendant as his Deputy was in writing, and dated September 8, 1943, and states: .

"SS-Sturmabfuhrer Kiefer will in principle act as my deputy until further notice." (NO-1244, Exhibit 45, Doc. Bk. II, p. 123).

The evidence clearly discloses that Kammler was thoroughly aware of the conditions in the concentration camps, and of the atrocities, murders, and ill treatment of the inmates.

The Tribunal concludes that the defendant knew what Kammler knew, since he was his Deputy and Chief of Amt C-II, and his duties required that he have such knowledge. The Tribunal further concludes that a person so close to Kammler and directly subordinate to him and designated by Kammler as his deputy would be advised of these facts. Such knowledge would of necessity entail familiarity with the facts as to the labor conditions on construction jobs, the type of labor employed, and the treatment accorded such labor. If these facts were known to him, the defendant would have had to know of the atrocities and inhuman tortures visited upon concentration camp inmates through Amt C-II, Amtsgruppe C, and the WVHA.

Another source of information for the defendant was the weekly conferences of Chiefs of Offices and Experts. These conferences were held, and the Tribunal concludes that they were thorough and detailed. Kammler's position and duties increased to the point where he was forced to devote less and less time to Amt C-II, and finally he was forced to move his offices from the WVHA Building. Subsequently, the only contact between himself and the collaborators in Amtsgruppe C, was in the conferences with the Amts Chiefs (R. 3336). During these conferences Kiefer had ample opportunity to learn of the existence of the gas chambers and the crematoria, the use of slave labor, the treatment of concentration camp inmates, the destruction of the Warsaw Ghetto, and many other instances of the criminality of the organization of which he was an integral part.

The evidence clearly discloses that the defendant did not make the slightest effort to improve these conditions, or failing in that, to sever his relationship with the organization. His activities and willing cooperation clearly shows the voluntary manner in which he worked as an Amt Chief of the WVHA. The Tribunal has given careful

consideration to all the contentions made by the defendant, and all the evidence and documents offered by him to rebut the case of the prosecution, but the Tribunal cannot accept his version as to his knowledge, duties, and activities as Amt Chief of Office C-II in the WVHA.

CONCLUSIONS

The Tribunal therefore concludes (bearing in mind the presumption of innocence of the defendant and the burden of proof required of the prosecution) that the evidence clearly establishes beyond a reasonable doubt that the defendant Max Kiefer is guilty of war crimes and crimes against humanity, as charged in Counts II and III of the indictment. He did not function in the role of the actual executioner, but was an Office Chief in the WVHA, which organization carried out the functions of extracting labor and personal resources from millions of unfortunate concentration camp inmates, Jews, and prisoners of war. His office duties and activities constituted one of the integral cogs in the evil machine of human destruction. His high professional learning, skill, and vast knowledge was prostituted to the needs of this organization. The planning and erection of a vast number of SS structures, both in the concentration camps and outside, would not have been possible without the contribution of the defendant Kiefer, as one whose services were most valuable and indispensable.

COUNT IV

The defendant admits that he was a member of the SS from 1935 and that he continued to be a member of the SS until the end. His contention that he was drafted into the SS in 1942 cannot be accepted by the Tribunal. His continued membership in the organization, his outstanding record in Amt C-II, and all the other evidence in the case leads the Tribunal to the conclusion that the defendant voluntarily joined the SS and voluntarily remained in such organization until the end and participated in the commission of war crimes and crimes against humanity. He remained in such organization with knowledge of its criminal activities subsequent to September

1, 1939. Therefore, the Tribunal finds and adjudges the defendant Kiefer guilty under Count IV of the indictment.

FRANZ EIRENSCHMALZ

Defendant Eirenschmalz was born October 20, 1901, at Munich. He joined the general SS in July 1931. On October 1, 1932, the defendant received a fulltime position with the SS in the administrative office. He did some outside construction work subsequent to occupying this position, but returned to the administration office and resumed his work in June 1934. His immediate superior in the Administration Office of the SS in 1934 was the defendant Pohl. From July 1934 until approximately the autumn of 1939, he was in the Office, "Budget and Construction". In 1939 he was transferred to the Main Department for the Construction Management of the Waffen-SS and Administration, as Chief of Amt V-5. His immediate superior in this office was the defendant Frank. On February 1, 1942, the Main Office, Budget and Building, was incorporated within the WVHA, and the defendant joined this organization as Chief of Amt C-VI of Antsgruppe C. He was subordinate to Kemmler, Chief of Antsgruppe C. Sometime between February 1, 1942 and February 1943, he was appointed Deputy Chief of Antsgruppe C, or Kemmler's Deputy. In May 1943, owing to illness, he entered a hospital and did not return to work with the WVHA until January 1944, and upon his return he was no longer Deputy for Kemmler. At all times between February 1, 1942 and May 1945, he was Chief of Amt C-VI of Antsgruppe C of the WVHA.

In order for the Tribunal to arrive at the truth in this case, a close scrutiny of the evidence was required. Witnesses made affidavits and later repudiated their contents by other affidavits, or while testifying as a witness. The defendant Eirenschmalz took the stand and testified in his own defense. He has utterly failed to impress the Tribunal with the truthfulness of his testimony. On the

contrary, his answers to direct and simple questions were most evasive and indefinite. After much insistence, when a direct answer was finally obtained from him by either the Tribunal or counsel, he would later repudiate such an answer. In his testimony may be seen so many contradictions and evasive answers that the Tribunal was unable to determine the facts from his testimony. After a careful review of all of the evidence, the Tribunal arrived at its own conclusions as to the true facts of this case.

Amt C-VI of Amtsgruppe C of the WVHA was sub-divided into the following divisions:

1. Amt C-VI-1, Building Material and Maintenance (Construction-Maintenance)
2. Amt C-VI-2, Plant Economy
3. Amt C-VI-3, Auditing and Price Control (and after 1943, Price Control).

The prosecution offered in evidence Exhibit No. 523, which was an affidavit made by the defendant Pohl, and the Tribunal deems it expedient to here incorporate certain portions of this affidavit:

- "9. Amtsgruppe C of the WVHA arose from Amt II, Buildings, of the former Main Office of Budget and Buildings. SS-Obergruppenfuehrer Dr. Kammler was Chief of Amtsgruppe C from 1 February 1942 until the capitulation in May 1945.
- "10. Amtsgruppe C was the highest construction office of the SS. Among other things, guiding principles concerning all constructions carried out within the SS were laid down by this office and passed on to subordinate Construction Offices and Construction Inspection Sections.
- "11. Furthermore, it was the duty of Amtsgruppe C to calculate the total building-material requirements of all Construction Inspection Sections and to send a requisition for this total requirement to the Speer Armaments Ministry. That was done once a year, and after Kammler had received these allocations of materials (quotas) from the Speer Armaments Ministry, he distributed them, according to requirements to the individual Construction Inspection Sections. Thereby Kammler was given control over the construction undertaken by the offices carrying out the building for they were not legally able nor allowed to build without an official quota allocation being made by Amtsgruppe C.
- "12. Kammler had a further means of control over the construction

activity of the SS because the expenditures of the offices subordinate to him were examined by him; this also included an examination of prices. The above mentioned examinations were carried out by Office VI of Amtsgruppe C. Standartenfuehrer Eirenschmalz was Chief of this Office from February 1942 until the capitulation.

-
- "14. The new construction and repair of Concentration Camps was in principle the task of Amtsgruppe C, and its subordinate offices.
- "15. It was the duty of the Budget Office in the former Main Office for Budget and Building to put those sums of money which were necessary for the establishment of concentration camps at the disposal of the Inspector of Concentration Camps, Eicke. These sums were there fixed in the SS Budget. Eicke had his own Construction Section with which he carried out the construction of concentration camps.
- "16. I remember that the Auschwitz Concentration Camp was built in 1943. This work was carried out by the local Construction Inspection Section (Construction Inspection Section Auschwitz), after the necessary allocations of material had been made to this Construction Inspection Section by Amtsgruppe C of the Economic and Administrative Main Office.
- "17. The gas chamber installations and the crematorium in the Auschwitz Concentration Camp was built by the method described in paragraph 16.
- "18. The statement of accounts for these constructions were forwarded to Office VI of Amtsgruppe C for preliminary examination for the supreme Auditing Court of the Reich or else they were submitted to the auditors of Amt C-VI. That was the prescribed official channel for all Construction Inspection Sections which were responsible to Amtsgruppe C of the Economic and Administrative Main Office.
- "19. The liquidation of Jews in the Auschwitz concentration camp in the years 1942 and 1943, when Rudolf Hoess was commander, was known to me, through Himmler's speech and I myself also saw the gas chambers and the crematorium in Auschwitz in the summer of 1944.
- "20. The construction, that is to say, the extension of the Riga Concentration Camp was undertaken during the second half of 1942 or the beginning of 1943 as far as I know. This work was ordered by the Reich Security Main Office, and the carrying out of the project was undertaken and completed by the locally competent Construction Inspection Section, as described above in Paragraphs 16 and 19.
- "21. Standartenfuehrer Frank Eirenschmalz was Chief of Office C-VI from February 1942 until May 1945. He had been an associate of mine since 3 February 1934 with interruptions

From January 1943 until May 1943 he was Deputy Chief of Amtsgruppe C."

"... Amtsgruppe C had a number of subordinate offices (construction inspectorates, etc.) in Reich territory as well as in the occupied territories."

The defendant's activities in the construction and maintenance of concentration camps prior to the formation of the WVHA, is shown from the following documents:

Affidavit of Heinrich Ernst Krone, (Ex. No. 53,) which reads in part as follows:

"In August 1937 I was employed in the Central Construction Management at Buchenwald as a specialist in technical branches. I was subordinate to the SS Administration Office and the section for building under Eirenschmalz. The protective electric fence was built by this Central Construction Management under order of Eicke. The crematorium in Buchenwald was built in 1939 or 1940 by a private contractor.

"In February 1943 I was transferred to Belgrade, where I did maintenance and building special jobs under the direction of Office Group C of the SS Economist, who was head of the building section of Group C and who was subordinate to Office Group C in Berlin.

"During the last years of the war it was the job of Office Group C to erect prisoner of war camps. The maintenance and repair of all buildings, particularly of those pertaining to the concentration camps, was Eirenschmalz's concern. He had to be kept informed of every repair job in concentration camps and also if gas chambers or crematoria failed to function and needed repairs it was his job to have the repairs carried out."

Later in the same affidavit, the affiant outlines some of the duties of the defendant Eirenschmalz in connection with concentration camps after the creation of the WVHA, as follows:

"In February 1944 I heard for the first time, through the head of the Building Inspectorate, of an order that prisoner of war camps were to be erected by Office Group C. I know that a small prisoner of war camp was to be built somewhere and exact building instructions regarding measurements, projected buildings, washing facilities, etc., were furnished by Office Group C. During the last years of the war it was the job of Office Group C to erect prisoner-of-war-camps."

The Prosecution offered in evidence an affidavit of Wolfgang Grosch (Ex 513) which tended to show the duties and activities of

the defendant Eirenschmalz in regard to the construction and maintenance of concentration camps and SS projects before and after the formation of the WVHA. The pertinent parts are as follows:

"The first time I heard about Standartenfuehrer Eirenschmalz was in the middle of 1939. At that time Eirenschmalz was Chief of the entire building operations within the SS administrative office. This position was similar to the position which Gruppenfuehrer Kammler had later on in the Economic and Administrative Main Office. Among other things it was Eirenschmalz' job to pay out the moneys for building projects of the SS Death Head Units, and the General SS. It was his job to approve these moneys and to have them paid. Eirenschmalz remained in this position until about 1940 and then moved to Berlin to work with the Budget and Buildings Main Office. In this capacity he was assigned the tasks which he later had to carry out within the Economic and Administrative Main Office, Amt C-VI.

"After the reorganization in 1942, and after the foundation of the Economic and Administrative Main Office, he became Chief of Amt C-VI, and remained there until the end of the war. About Spring or Summer 1943, by Kammler's or Pohl's orders he became Deputy Chief of Office Group C and remained in this position, while still holding office as Office Chief C-VI, up to the end of 1943.

"During the time he was Kammler's deputy, Eirenschmalz signed the official mail 'by order of Kamler'. Since the foundation of the Economic and Administrative Main Office Eirenschmalz, among other things, was charged with granting subsidies for keeping up building operation of all buildings projects of the Waffen-SS, which also included the Concentration Camps. In this capacity he had to grant annual subsidies for keeping up the building operations and for repair work. The bills obtained in return for these annual payments were sent to him afterwards as vouchers. Eirenschmalz knew by way of the bills which he had to examine, when gas chambers or crematoria or other concentration camp establishments were in need of repair.

"Eirenschmalz' position in the SS Administrative Office was that of the supreme Chief for all questions concerning building operations. Within the Office Budget and Buildings his tasks were restricted to the tasks carried out by the later Office C-VI, which he continued to carry out up to the end, in the Economic and Administrative Main Office."

The Tribunal is mindful of the testimony of this affiant when called upon to testify on cross examination on behalf of the defendant. Even though he repudiated certain parts of this affidavit, from a review of all the evidence in the case, the Tribunal is of the opinion that this affidavit, upon the whole, speaks the truth.

The prosecution also offered in evidence another affidavit of Wolfgang Grosch (Exhibit 52). The pertinent parts are as follows:

"February 1, 1938, I was attached to SS Administrative Office with Eirenschmalz as immediate superior, where I remained until November, 1941, when I was transferred to the Central Russian Office. I was in Russia during the entire life of the WVHA.

"Amtsgruppe C was responsible for the construction of gas chambers and crematorias when such construction had been demanded by Amtsgruppe D. The official channels were as follows: Amtsgruppe D contacted Amtsgruppe C. Amt C-I drew up the building plans for these installations as far as the construction work was concerned and passed those on to Amt C III, who worked on the engineering section of the construction, the airing of gas chambers or the appliances for the gas to enter the chamber. Amt C-III then handed these plans to a private firm which was to supply the special machinery or the cremating furnaces. Further on, through official channels, C-III informed C-V which passed on the order via the Public Works Administrative Division to the Central Public Works Department. The Central Public Works Department then handed the construction assignment to the respective construction department of the concentration camp which undertook the actual building with detainees assigned to them by D II. Amtsgruppe D gave orders and instructions to Amtsgruppe C with regard to the required building space and the purpose of these constructions. The actual consigner for the gas chambers and crematorias was Amtsgruppe D."

Other evidence discloses that while the defendant Eirenschmalz was in the Main Office, Budget and Building, he ordered the erection of a crematorium at Dachau in the summer of 1940 (Ex. 541), and that at approximately the same time he ordered the construction of a crematorium at Buchenwald (NO 4400 and 4401). The defendant Eirenschmalz emphatically disputed all evidence that he had any authority or gave any orders or participated in any way in the maintenance or construction of any installations of concentration camps.

The defendant admitted upon cross examination that he visited Dachau in 1936 and 1937, and quite often thereafter he visited the Garrison Office at Dachau. He further admitted that on these visits to Dachau he sometimes saw the inmates working. He also admitted that he visited concentration camp Sachsenhausen, but that he never

entered the protective custody part of the camp. He also admitted that he visited concentration camp Oranienburg, and saw inmates working there. He admitted that he visited Buchenwald in 1940 or 1941, but did not enter the protective custody part of the camp. He admitted that he visited concentration camp Ravensbrueck and talked to the Construction Manager of the Clothing Depot, but would not say how many times he had visited this camp. He testified:

"Q. When you made the visits to these camps that we have been talking about, you usually went on business, didn't you, that had something to do with your office affairs?"

"A. Yes".

He also admitted that he visited Auschwitz on one occasion in 1943 or 1944. He said that he was not sure that he saw inmates working in the armament plant on this visit. He denied ever visiting the concentration camps at Neuengamme, Stutthof, Natzweiler, Gross-Rosen, ~~Neuthausen~~, and Bergen-Belsen. He did admit, however, that in 1940 and 1941 he visited Lublin for the purpose of discussing construction matters for the Waffen-SS, but did not see any inmates working while there. He denied any knowledge of foreigners or prisoners of war being confined in concentration camps, but assumed that Jews were confined therein. He testified:

"Q. You knew, did you not, that the construction that was carried out by Amtsgruppe C in the concentration camps used inmate labor?"

"A. Yes."

The defendant denied any knowledge of the fact that Amtsgruppe W used inmate labor, but said that he could reach that assumption, although he did not know anything about the allocation of inmate labor. He emphatically denied having heard at any time during the War that anyone was mistreated or killed in a concentration camp, and stated that at no time was he informed that inmates were being

underfed and under-nourished in any concentration camp.

From all of the evidence in the case the Tribunal concludes the following: the defendant Franz Eirenschmalz was a member of the SS from an early date, and attained the high rank of Colonel in the Waffen-SS. Over a long period of time, prior to the War, and prior to the organization of the WVHA and all during the War, he was occupied directly with construction matters of the SS, including the concentration camps. Throughout the entire trial he has endeavored to hide in every way possible his responsibility and participation in concentration camp construction-maintenance affairs. The evidence clearly discloses his active participation in matters pertaining to the operation, construction and maintenance of concentration camps located in the German Reich and in the occupied territories. His Chief, the defendant Pohl, recognized his worth in the fields of task assigned to him in the WVHA, and when recommending his promotion gave a glowing account of his achievements and his loyalty to his tasks. The evidence clearly discloses that at all times, as Chief of Amt C-VI, he bore a full measure of responsibility for concentration camp construction matters, including the construction and maintenance of crematoria and gas chambers. From his own testimony, it is clear that he visited a great number of the concentration camps at various times; that he saw and had an opportunity of seeing the inmates as they worked, the conditions under which they worked, and the housing conditions of the various camps.

The Tribunal concludes that the knowledge of the defendant concerning the erection and maintenance of the gas chambers and crematoria in the various concentration camps put him upon actual notice of the intended use of these installations. Owing to the high position that he held in the WVHA, we are forced to conclude that defendant Eirenschmalz had actual knowledge of "Action Reinhardt"

and the "Final Solution of the Jewish Problem," and that he knew that numberless thousands of unfortunate Jews and nationals of occupied territories were exterminated in the gas chambers and crematoria erected and maintained under the supervision of his office and other offices of the WVHA. His activities in the SS, both before and after the organization of the WVHA, constituted a material cog in the machinery necessary for the operation of the concentration camps.

The Tribunal does not find that he was a so-called "trigger man" in the deaths and atrocities committed on unfortunate people in the concentration camps, but that he, with others, operated and maintained the gigantic enterprises which resulted in the unlawful deaths of millions of slave laborers from occupied territories, and prisoners of war.

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that the Defendant Eirenschmalz was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving the commission of war crimes and crimes against humanity, and finds him guilty as charged in Counts II and III of the indictment.

COUNT IV

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that defendant Eirenschmalz is guilty of belonging to the SS, an organization declared to be criminal by the International Military Tribunal, and as charged in Count IV of the indictment.

KARL SOMMER

This defendant was born on the 25th of March 1915 in Cologne; he attended the elementary schools and four classes of high school; he belonged neither to the NSDAP, nor any other political party. He joined the Allgemeine-SS in the last part of 1933 and became an SS private on January 30, 1934. His last rank in the Allgemeine-SS was Obersturmfuehrer. In March 1941, Sommer was appointed to the Inmate Labor Assignment Office of the Deutsche Erd und Stein Werke, an SS enterprise. In this office he had the task of supervising inmate labor assignments, together with the supervision of the general welfare of the inmates. In October 1941, he succeeded to the head of the Department for Inmate Labor Assignment. Amt D-II of the WVHA was called "Labor Allocation of Inmates", and it was the task of Amt-D-II to arrange the labor allocation of inmates who were confined in concentration camps. Originally, labor forces were made available only for enterprises operated by the SS; later, after August or September of 1942, inmates were turned over to the industries inside of Germany, as well as in the occupied territories. The defendant Sommer was released from the Waffen-SS in 1941, by reason of incapacity caused by a foot wound. He was then assigned to DEST on March 1, 1941. He met Pohl about the end of 1941, and met Maurer early in 1942. Later Mummert secured the appointment of Sommer to Office D-II, as collaborator of Inmate Labor Assignment with Maurer. He entered upon his duties with D-II on May 5, 1942, and worked with this Amt until about April 1945. He was first Maurer's co-worker, and at the end of 1943 became Maurer's Deputy. He lived in Berlin until 1943, then moved his permanent residence to Oranienburg.

THE ALLOCATION OF INMATE LABOR IN AMT D-II OF THE WVHA

From all of the evidence in the case, including the testimony of the defendant, he was thoroughly familiar with every detail of

Amt D-II, its fields of task, training of inmates, allocation of labor for all inmates, wherever located, the amount and kinds of work performed by them, their living conditions, treatment, food, clothing, and housing; the camps from which they were assigned, and the industries to which they were assigned; the payments made by the various industries for their work, the payment for work, if any, to the inmates, and the collection of the money for the work of the inmates from the various industries.

The Tribunal was greatly impressed by the detailed information which the defendant had in regard to every aspect of inmate labor and its allocation. The defendant testified that after March 1944 Maurer told him that he could designate himself as a Chief of a Main Department, which he did, and at the end of 1942, or early in 1943, he became the Deputy of Maurer, Chief of Amt D-II. By order of Gluecks he was permitted to wear slack trousers while in uniform and at other times to wear civilian clothing on account of the wound in his foot. He further testified that he never knew of any prisoners being confined in a concentration camp except political prisoners and criminal inmates. Later, he saw some Russian prisoners of war that were volunteers, he claimed. The defendant testified that he personally visited every one of the concentration camps during his work with Amt D-II; that he remembered clearly his visits to Auschwitz in August 1943 and November 1944, and Bergen-Belsen in 1944 and again in 1945. He further testified that during a conversation with Gluecks, the Chief of Amtsgruppe D and Inspector of the concentration camps, he was informed about the program for the extermination of the Jews in Auschwitz, but that he did not participate in this program in any way, even though he was asked by Gluecks to do so. Immediately after this conversation with Gluecks, Pohl gave to Maurer an order concerning this program at Auschwitz. He

further testified that all Amt Chiefs of Amtsgruppe D had the permanent permission to enter and visit the concentration camps.

The prosecution offered in evidence an affidavit of the defendant Sommer (Ex. 304), which disclosed that the defendant personally knew of the allocation of between 500,000 and 600,000 inmate laborers from the concentration camps to the various plants and industries. This affidavit further disclosed that prisoners were requested by the plants from Amtsgruppe D (Maurer and Gluecks) or in case of personal connections, from Pohl.

The evidence disclosed that from Amt D-II, the defendant Sommer furnished guards for the prisoners; that he made tabulations computing the wages due from DAW for concentration camp labor, also, that he reported that 36,784 prisoners from Lublin were supplied during July 1944 to DAW and that DAW was due to pay the sum of 55,176 Reichsmarks for such labor. (Ex. 710).

From another affidavit of the defendant, (Ex. 630), it is clearly shown that the defendant was thoroughly familiar with the program for the extermination of the Jews at Auschwitz and of the illegal medical experiments which were carried out in the various concentration camps.

The evidence further clearly discloses that the defendant was familiar with "Action Reinhardt" and was guilty of personally participating in this illegal and unwarranted action.

The evidence of the prosecution witness Jelzy Bielsky, an inmate at Auschwitz from August 1942 until October 1944, tended to show that the defendant Sommer personally murdered two inmates at Auschwitz. After a careful review of all the evidence the Tribunal is of the opinion that the defendant Sommer was not guilty of these two atrocious murders and that the witness Bielsky was mistaken as to the identity of the person responsible for such crimes.

There is evidence in the case which tends to show that the defendant Sommer actually knew of the existence of crematoria and gas

chambers in the concentration camps, and the purposes for which they were used.

Wolfgang Sanner, witness for the prosecution, testified that during 1944 and 1945 he was an inmate and was working on labor assignments at Mauthausen concentration camp. He received three letters from Amt D-II signed by the defendant. In these letters Sommer gave the names of approximately twelve inmates, with instructions that they were not to be transferred to other camps and were not to be employed in Camp Mauthausen. Within three to five days after receiving these letters, the inmates named therein were reported dead. The causes of death in these reports were: "shot while trying to escape", "suicide by running into electrically charged wire".

The Tribunal does not deem it necessary to again enumerate in this Judgment, the horrors and deaths of concentration camp inmates that resulted from inhumane treatment, beatings, tortures, starvation, murders, shootings, hangings, gassings and burnings -- nor would any useful purpose be served by again describing the millions of deaths and wholesale pillage and unlawful confiscation of property resulting from "Action Reinhardt" and the "Final Solution of the Jewish Problem". Reference is hereby made to other parts of this Judgment for these details.

Amt D-II and the defendant Sommer played an important part in the commission of these atrocities and murders, and for such participation on his part, the defendant Sommer is criminally responsible.

The defendant Sommer testified at great length in his own defense, and attempted in various ways to answer and explain the evidence offered on the part of the prosecution. He offered documents, affidavits, and witnesses, in an effort to show a lack of criminal responsibility on his part in the operation of Amt D-II of the WVHA. He emphatically denied all evidence which would tend to show guilt

on his part of all charges in the indictment.

The Tribunal has carefully considered the evidence brought to its attention by the defendant, and has carefully and thoughtfully considered the closing argument of his counsel. But the Tribunal can not and does not accept as true the defendant's contentions that his actions in D-II did not involve criminal responsibility.

Without attempting to pass upon his guilt or innocence, the Tribunal deplures the fact that Gerhardt Maurer was not apprehended prior to the commencement of this case, in order that his responsibility, if any, for the operation of D-II could be determined.

CONCLUSIONS

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that the defendant Karl Sommer is guilty of the charges contained in Counts II and III of the indictment.

COUNT IV

From all of the evidence in the case, including the admissions of the defendant, the Tribunal finds and adjudges, beyond a reasonable doubt, that the defendant Karl Sommer is guilty of the charges contained in Count IV of the indictment.

HERMANN POOK

Defendant Pook was born on May 1, 1901 in Berlin; after completing his education at the elementary schools, he studied dentistry from 1921 to 1925 at the University of Berlin and passed his State examination in 1925. In 1927 he received his Doctor's degree in Berlin and began practice as an independent dentist in Berlin-Lichterfelde. He joined the NSDAP in 1933, and in the same year became a member of the Reiter SS. He was called into the Waffen-SS on October 1, 1940, and the highest rank attained by him in the Waffen-SS was Obersturmbannfuehrer (Lieutenant Colonel). On September 6,

1943, after completing a number of duty assignments for the Waffen-SS, he was transferred to the SS Economic and Administrative Main Office, Amt D-III of Amtsgruppe D, as chief dental officer, and held this position until the end of the war.

The order transferring him to the WVHA is as follows:

"SS Obersturmbannführer Hermann Pook, born on 1 May 1901, at present Panzer Grenadier Division 'Hohenstaufen' Division Staff, is transferred to the SS Main Economic and Administrative Office, Amtsgruppe D-III, Oranienburg, in the capacity as dentist in charge, as of September 3, 1943.

"He is to report to the Chief of the SS-Main Economic and Administrative Office, Oranienburg, SS-Obersturmbannführer Lolling." (Pros. Ex. 574).

Thus, from this order it is perfectly clear that he was directly subordinate in the WVHA to Dr. Lolling, chief physician of Amt D-III. In his field of tasks, he was subordinated under three channels. He was subordinated to Gruppenführer Gluecks, Chief of Amtsgruppe D in military and disciplinary matters. He was subordinated to Office XIV of Amtsgruppe D of the FHA, one of the twelve main offices of the SS, not connected with the WVHA. The Medical Office of the Waffen-SS, upon its reorganization in the spring of 1943, became Amtsgruppe D of the FHA and was composed of various departments, one of which was Office XIV, the dental office. This office was charged with the administration of the dental services for the whole of the SS, and among other things, for the supplying of materials to dental stations and the staffing of the SS Divisions and Main Offices with dental personnel.

The position of Chief Dental Surgeon in Amtsgruppe D of FHA was first occupied by Sturmbannführer Reutter until September 1943 when the defendant Pook succeeded him. The field of tasks in this position of the defendant Pook consisted largely in the following: the channeling of correspondence passing between the camp dentists and Office XIV, checking and considering for approval

requisitions submitted by camp dentists, forwarding of monthly work, personnel, and gold reports from the camp dentists to Office XIV, Lolling's subordinate, and matters relating to dental affairs in concentration camps. He was consulted on questions concerning the transfer and assignment of dental personnel within the concentration camps. He also worked in the Oranienburg Dental Clinic in dealing with the care of SS members and their dependents. He was also the supervisor of SS concentration camp dentists and camp inmate dentists. He exercised authority of command over the SS camp dentists as well. On page 4044 of the record, the defendant testified as follows:

"If it would have been necessary, and if I would have determined that the SS dentist in that camp had not really carried out his duty and if I had seen that on the occasion of an inspection then certainly I would have told him that during my visit and I would have told him if he was not going to try any harder then I would have to submit a report to my superior and he would be dismissed or punished."

As to the knowledge that the defendant had of conditions in concentration camps in which he had supervisory and administrative authority, the evidence clearly discloses that he made frequent inspection tours of dental stations located in the various concentration camps and outside labor camps. The defendant vigorously contends and insists that he did not have knowledge of the manner in which the inmates were treated, nor did he have knowledge of conditions prevailing in such concentration camps. Despite his denials, the Tribunal is of the opinion, and so holds, that he was familiar with the atrocious conditions generally prevailing in the concentration camps. In January 1944, he visited Mauthausen concentration camp in company with Lolling, his superior, and spent the evening there. On at least one or more occasions he visited Buchenwald concentration camp, his last visit in this camp being in March 1945, just prior to the capitulation.

It is a matter of public knowledge from a report made by a U. S.

Congressional Committee in April of the same year, and from motion pictures taken of this camp by the allied armies upon its capture, and other documentary evidence in the case, that this camp constituted an extermination factory of civilians of occupied territories, Jews, and prisoners of war, that these unfortunate people were exterminated by starvations, beatings, tortures, incredibly crowded sleeping conditions, and sickness following inhumane treatment. Quoting from the U. S. Congressional Committee Report, which was offered in evidence, the following appears:

"Pictures and descriptions of the conditions at the camp cannot adequately portray what we saw there, and it is only when the stench of the camp is smelled that anyone can have complete appreciation of the depths of degradation to which the German Nazi Government and those responsible for it and its agencies, organizations, and practices have dropped in their treatment of those who failed to embrace the doctrines of the master race." (Ex. 177)

These terrible conditions were found the month following the last visit to this camp by the defendant, yet the defendant denies that he noticed anything unusual while there. He further admits that he visited the Dora Labor Camps in March 1944 and that he inspected his dental station at Ohrdruff as late as March 1945, but still insisted that he saw nothing on these visits that would put him upon notice of the horrible conditions and inhumane measures that were being administered to the inmates.

The prosecution offered in evidence an affidavit of Dr. Werner Grueness (Prosecution Document Book 21, Exhibit 515), in regard to a visit of the defendant to Labor Camp No. 3, which was concerned with the construction of the Fuehrer's Headquarters at Ohrdruff. The Tribunal quotes the following portions of this affidavit:

"I remember a visit of Dr. Pook, the Chief Dental Surgeon for all the Concentration Camps, who came from Berlin to inspect the installation for dental surgery at S III. He said that the treatment as applied was much too humane, that anaesthetics would have to be dispensed with, and that, generally speaking, more rigorous dental work was to be carried out. Besides only really essential treatment should be given to these prisoners. Supply of material, which was under his control and for which he,

as the highest instance, was responsible, were unsatisfactory in the camp at Ohrdruff, and I could only obtain this material with the greatest difficulty through channels from Buchenwald. Dr. Pook, to whom I presented my exact records, made fun of these civilian and bureaucratic methods and told me that such a conscientious treatment of these people was out of the question. All my efforts to obtain dental treatment for the prisoners he termed ridiculous and he gave orders that only essential work was to be performed, which meant that only tooth extractions were to be undertaken and no other treatment at all. These tooth extractions were to be carried out without any local anaesthesia. Many of these prisoners had no more teeth and I was forbidden by Dr. Pook to have sets of artificial teeth made. Consequently many of these prisoners were not able to digest their food properly, and this resulted in serious disorders of the stomach and the intestines, which in many cases led to death.

"The gold fillings of deceased prisoners were removed by a prisoner dentist and then turned over to the SS dentist of the camp at Ohrdruff, who forwarded it to Barnewald."

The defendant emphatically denies the truth of this affidavit, contends that he had no such knowledge and that no such orders were given by him.

The Tribunal concludes that this affidavit portrays the true conditions prevailing in this camp and that the defendant's attitude towards these unfortunate people was as stated therein. Other evidence in the case corroborates the Grueness affidavit. The defendant admitted that he heard of the extermination program of the SS sometime during the summer of 1944. After hearing of this program, he visited the Concentration Camp Auschwitz and had the opportunity of seeing, and did see, the mortality charts kept by Lolling. However, he denies that he noticed from these charts the actual death rate. It should be noted that at the time of his visit to the Auschwitz Concentration Camp the program of extermination was at its peak. In regard to the SS program of the final solution of the Jewish problem and the planned extermination of inferior races and political opponents of the Nazi regime, it would follow that thought was given as to what would be done with their personal property and valuables. The answer to this question was to confiscate and steal

everything of value that could be obtained from their personal belongings and their bodies.

The International Military Tribunal in its Judgment against Goering and others, found the following:

"Evidence was given of the treatment of the inmates before and after their extermination. There was testimony that the hair of women victims was cut off before they were killed, and shipped to Germany to be used in the manufacture of mattresses. The clothes, money, and valuables of the inmates were also salvaged and sent to the appropriate agencies for disposition. After the extermination, the gold teeth and fillings were taken from the heads of the corpses and sent to the Reichsbank." (I.M.T. 169214)

By an order of Himmler, dated September 23, 1940, gold was to be removed from the teeth of deceased concentration camp inmates for the benefit of the Reich. The defendant Pook admitted knowledge of this order, but denied that he participated in the carrying out of this order, saying:

"As a leading dentist, I had nothing to do with the removal of gold teeth as far as people were concerned who had died natural deaths. As far as removal of gold was concerned from people who had been killed in the extermination programs, there was no question about that. I had no knowledge of the extermination program, and these actions. Therefore, I couldn't know anything at all about the removal of gold teeth either." (R. 3917)

The Tribunal concludes from all the evidence that the extermination program was at least in part an SS task. This program required many agencies and many SS responsible persons to carry it out and to conclude it. From the time that the subjects for extermination were collected to the time of their final extermination in the gas chambers and crematoria, various individuals had specific tasks assigned to them as their duties in carrying out this program. One of the final steps was to take from the mouths of the gassed victims the remaining vestige of value to the Reich, the gold from their teeth. Thus, when the defendant and his subordinates had completed their task of removing this gold, the flaming mouths of the crematoria completed the program.

The Tribunal finds from the evidence, beyond a reasonable doubt, that the defendant Pook in his capacity as the Chief Dentist of the WVHA had constructive knowledge of the policy of extermination as carried out in the concentration camps by the SS, and, as his part therein he was charged with the confiscation of the gold from the mouths of the subjects and was directly responsible as one of the participants in such program.

The Tribunal will not deal with "Action Reinhardt" at this point as a separate and distinct action, but has made its findings as to this defendant from the over-all picture of the SS extermination program. The confiscation of the dental gold of deceased concentration camp inmates was directly tied into and made a part of the extermination program and "Action Reinhardt."

CONCLUSIONS

The Tribunal finds beyond a reasonable doubt from the evidence in this case that the defendant Pook was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving the commission of war crimes and crimes against humanity, as charged in Counts II and III of the indictment.

COUNT IV

The Tribunal further finds beyond a reasonable doubt that the defendant Pook was a member of the SS after September 1, 1939, an organization declared criminal by the International Military Tribunal, as charged in the indictment. Therefore, the Tribunal finds and adjudges that the defendant Hermann Pook is guilty as charged in Count IV of the indictment.

HANS HOHBERG

Hans Hohberg was not a member of the NSDAP and never joined the SS. Educated and trained as an auditor, he was employed under contract by the SS Administration in his professional capacity. He first came into contact with Pohl in 1940 when he was engaged to audit the accounts of the various SS-Enterprises, and "if possible, to bring order into his companies". Hohberg states that his only superior was the Institute of Public Auditors, and that against his will Pohl made him Chief of Staff W. He sought to deny that he was Chief of Staff W, but the defendants Volk and Baier, as well as defense witness Karoli from Staff W, all confirmed his (Hohberg's) official position.

The evidence shows that Hohberg's part in the SS-Industries went far beyond that of a simple auditor. The task of coordinating and directing W-Industries at the top level was the task of Staff W, whose chief, according to the business order of SS-WVHA, had many duties. He was economic advisor to Pohl, assisted Pohl in the discharge of his duties of management, and the chiefs of the 8 offices in Department W were to report to Pohl only after conferring with the Chief of Staff W on all financial, economic and other important matters concerning the management of the enterprises. The Chief of Staff W was to supervise the manner in which all funds and moneys furnished by or through DWB were to be used. He was to supervise business transactions of all SS-Industries, he was to examine the purchase and sale of all plots of land, and he employed and discharged all employees in Staff W. In his testimony Pohl declared that Staff W was the instrument which he used as the sole business manager of DWB in the supervision of the economic enterprises.

Hohberg is definitely associated with concentration camps. All W-Industries obviously were an essential part of the concentration camp system. Himmler, in his Metz speech, declared: "We cannot exist without the business enterprises".

Because he was neither a member of the National Socialist Party nor the SS, Hohberg claims an immunity from responsibility for SS excesses. But he worked for the SS-Enterprises, he planned for the SS-Enterprises, he knew the SS-Enterprises used concentration camp labor, he knew the inmates were unpaid, badly fed, badly treated, yet he continued to work with the SS. He did not wear the SS uniform, but he cooperated and collaborated with the SS as much as if he held high rank in that organization. Having visited many of the concentration camps he cannot plead ignorance as to what transpired within them.

Hohberg showed a great deal of initiative in the development of the SS-Industries. In fact on the stand he described himself as the godfather of DWB.

Although his aim in court was to demonstrate what an insignificant part he played in the WVHA setup, he could not resist the pride of pointing out how he completely reorganized the SS-Industries.

Karoli testified that Hohberg was the expert and economic brain of the enterprises.

When the workshops in the Dachau concentration camp were organized and incorporated into the DAW, it was Hohberg who handled the financial aspects of the transaction and advised Pohl as to what steps should be taken.

Testifying on the matter of remuneration for the use of concentration camp inmates, Hohberg stated:

"I saw the amount of daily wages paid for the inmates and as an auditor I had

to give my opinion on what these enterprises should pay to the Reich."

As an auditor, Hohberg was not compelled, as he said here, to render an opinion on what the enterprises should pay to the Reich.

Through Hohberg's efforts, the German Lebensmittel, the Textile and Leather Company, and the OSTI -- all using inmate labor -- were given the form of a company. He was frequently consulted when these enterprises were being founded.

The commanders of the concentration camps functioned under Pohl's direction as Works Managers of the various economic enterprises. Thus Hohberg had direct contact with the concentration camps, since Staff W, of which he was the Chief, made the arrangements with concentration camp commanders in handling the various enterprises.

When the matter of transferring armament production to concentration camps was discussed, Hohberg accepted appointment as expert for the WVHA. People desiring to know the details of the transfer of armament enterprises to Neuengamme, Auschwitz, Lublin and Ravensbrueck, were referred to Hohberg as being the person in WVHA competent to conduct negotiations.

When the Hermann Goering Works wanted inmate labor, Hohberg attended the conference which considered the ways and means of supplying these inmates. The memoranda written by Hohberg reveal an intimate knowledge of concentration camp labor problems.

Hohberg himself testified that he handled the financial, organizational and legal problems of the Economic Enterprises.

Hohberg inveighed against the SS, accused Pohl of crimes and expressed indignation at the concentration camp

excesses. He testified that he left the WVHA because of his disapproval of its activities. But even after leaving, he accepted a contract from Pohl by which his family received 2,000 RM per month.

In 1944, after having left the WVHA, he carried out successful negotiations with Pohl and obtained the cooperation of the SS-Enterprises in the production of jet propelled planes.

Staff W played an important part in Action Reinhardt, in the supervision of OSTI, and in handling loans from the Reich funds. Pohl's report to Himmler, which was prepared by Hohberg, listed OSTI under Staff W. OSTI is listed as a part of Staff W on the chart of WVHA which was signed by Pohl.

The Tribunal has acquitted the defendant Vogt under the indictment and since he also was an auditor, a comparison between him and Hohberg is inevitable. The difference between them lies in the fact that Vogt at no time was anything but an auditor, whereas Hohberg, in addition to being an auditor, was an active participant in the economic enterprises of the SS in the several capacities of Chief of Staff W, financial director and economic advisor.

Hohberg testified at great length on his opposition to the Nazi regime and how he participated in the resistance movement. While actually working with the SS-Enterprises, it is not apparent that he did anything to slow up the juggernaut of oppression over concentration camp inmates. However, after he left the WVHA it is not unlikely that he did lend himself to the underground movement working against the regime and organization with which he had at one time cooperated.

The Tribunal does not deny that Hohberg may have played an active part in that movement and will give that fact

due weight.

The Tribunal finds Hohberg guilty under Counts II and III of the indictment. He is not charged under Count IV of the indictment.

HANS BAIER

Hans Baier joined the National Socialist Party on May 1, 1933. In 1937 Pohl induced him to enter the SS and had him transferred from the Navy in which he was then serving. From April 1937 until August 1943 Baier conducted instruction courses on SS administration. He states that in these courses he never mentioned concentration camps, but one of his former students, Philipp Grimm, declared in an affidavit that at this school he was taught:

"Everything in connection with the administration of troops in a concentration camp."

Baier's work as instructor apparently so well satisfied the demands of Nazi and SS ideology that it brought from Pohl the compliment that Baier's students could be appointed immediately to the Deathhead Units as administrative leaders.

Baier may not have mentioned concentration camps in his lectures but he could not help knowing about them, since in 1941 he had inmates from the Dachau concentration camp at his very school, employed in enlarging and extending it. Inmates worked there daily.

In August 1943 Baier became Chief of Staff W of the WVHA, following Hohberg. His counsel states that it is open to discussion whether Baier could be called Dr Hohberg's successor. But the minutes of the W-Chiefs of Amt meeting on September 29, 1943, written up by Dr Volk, carries this item:

"He (POHL) recalled Standartenfuehrer Baier, Commander of the school in Dachau, and appointed him Chief of Staff W."

As successor to Hohberg, Baier is as much involved as Hohberg in crimes against humanity arising out of his activities as Chief of Staff W. It is unnecessary to relate again the functions of the Staff-W Chief, since that matter was sufficiently covered in the discussion of Hohberg's case. However, Article 8 of the WVHA Code of Procedure may be quoted to show the important role the office of Chief of Staff W was given in the organization set-up:

"The Chief W

Article 8.

The Chief W is the economic advisor of the Chief of the Main Office. In this capacity he is especially responsible for the supervision as well as the economic and financial counselling of the companies and offices; he moreover assists the Chief of the Main Office in his leadership tasks."

It has been advanced in Baier's behalf that his work was confined to the spheres of auditing and taxation, but the references in the document books in this case are legion as to Baier's activities beyond that of auditor and tax expert.

On February 29, 1944, Baier received a long report from Weber on the expenditures for prisoners in comparison with the wages paid to free workers. On March 3, 1944, Baier ordered that the various offices involved report to him on the industries employing prisoners.

On March 17, 1944, Maurer of Amtsgruppe D wrote Baier asking for a conference on the subject of wage scales for prisoners in the armament industries.

On March 27, 1944, Baier wrote a memorandum on the "effects of a pay raise for prisoners working with the Deutsche Ausruestungswerke" (German Equipment Plants). This constant

reference to wages for the prisoners is not to be understood as meaning anything for the prisoners, but only increased revenue for the SS. In fact toward the end of the war, Baier had from 5,000,000 to 6,000,000 RM in one account, sums which had been collected from individual enterprises. In an affidavit, made prior to the trial, he admitted that --

"the fact that the inmates themselves did not receive any compensation obviously was an exploitation."

One of the most amazing documents presented at the trial on the subject of prisoner labor is a letter sent by the Allach-Munich GmbH to Staff W, demanding reimbursement for losses incurred on account of the absence of prison labor. Part of the letter reads as follows:

"In consequence of the typhoid epidemic which broke out in the Dachau concentration camp in January 1943, no prisoners were available to us, as workers from 26 January 1943 up to and including 2 March 1943. On 4th, 5th and 6th March 1943 only 20 prisoners worked for us. For years our plant has been completely dependent on prison labor. A sudden withdrawal of these workers as it occurred in January this year, means the closing down of the whole plant.

"We are convinced that the losses incurred by us, through the withdrawal of prisoners in the period from 26 January to the beginning of the month of March, fall under Paragraph 2 of the business regulations for the Financial compensation office and should, therefore, be reimbursed.

"Without the typhoid epidemic in January and February 1943 we should have made a profit of about half the amount of the total for the 2nd and 3rd quarters of 1943, that is to say, about 21,300 RM, because operating conditions, apart from these circumstances, were the same. Instead of this profit we suffered losses of about 10,500 RM. Thus our losses resulting from the shortage of prisoners amounts to about 31,800 RM."

In a letter written by Pohl under the date of February 18, 1944, he states that he charges Chief-W, SS Oberfuehrer Baier with certain duties:

"regarding the management and supervision of all enterprises which are under the supervision and administration of WVHA."

But it is argued that it was impossible for Baier to exercise any management or direction in business enterprises because commercial law did not permit it. It is not apparent from the evidence in this case that SS-Enterprises or SS officers were halted from a performance of any self-serving function or deed by commercial law or any other law.

Baier was aware of the long hours of employment to which concentration camp inmates were subjected, having received from Pohl on January 22, 1943, a communication which reads: "I should like to point out that the working time of prisoners, laid down by order, which amounts to 11 hours daily, has to be kept up also during the winter months."

Baier was involved with Volk in the matter of the acquisition of real estate for the proposed concentration camp at Stutthof, already discussed in the Volk opinion.

Baier also had full cognizance of the OSTI operation. On April 16, 1944, he received a report from Dr Horn on the state of the liquidation of the Ostindustrie GmbH. In one of his reports, Dr Horn in winding up the affairs of OSTI, declared:

"As the SS members are no longer needed they are sent back to the personnel office of the SS Economic and Administration Main Office if there are no other orders from the SS-WVHA."

This in itself demonstrates how completely the OSTI was a WVHA activity. The Tribunal does not find that Baier participated in any of the early phases of OSTI, but it does find that his office trafficked in the illgotten gains from OSTI.

Baier states that he never visited a concentration camp, even though the Dachau concentration camp was only a 15

minutes' walk from his school. In any event he can scarcely claim ignorance of concentration camps. On January 19, 1944, he signed a document with a notice of Pohl's order converting into concentration camps the forced labor camps at Cracow-Plaszow, Lvov, Lublin and Radom-Blizyn. He does admit having visited some of the DWB factories which employed concentration camp inmates, but declares that he never heard of any irregularities in the treatment of prisoners. He then qualifies this with the statement that he confined his visits to the office rooms of the factory. But even though he never set foot inside a concentration camp, he was satisfied that the inmates were all criminals, having been all duly adjudicated so by authority of the State.

The Tribunal rejects Baier's explanation that he believed all inmates were criminals confined by due process of law. It was a matter of common public knowledge that merely the expression of opinion, no matter how innocuous, which could be interpreted as adverse to the interests of the Reich or of the Nazi Party, would land one in a concentration camp. It was a matter of general information that populations were brought in from other countries and thrown into concentration camps. That one as close as Baier to concentration camp activities could not know the real state of affairs is simply incredible unless it can be shown that Baier is mentally deficient.

It was not necessary for Baier to visit concentration or labor camps to learn of the dreadful living conditions existing in many of those establishments. Reports were sent to Staff W on what was transpiring in the field. One report dated 4 December 1944, and directed to SS-Main Economic and Administrative Office Staff W, reveals the horrible state of affairs at Camp Bisingen:

"The camp was occupied in the first days of October by 1,500 mostly Polish prisoners. It is situated on an extremely wet meadow; there are no pathways. The ground has become completely bogged; the wetness is almost beyond control. The hygienic installations, which are of the most primitive kind, such as toilets, dispensary and washrooms, are absolutely inadequate; further, they are too far apart, and hard to reach under these muddy conditions. Consequently, extreme filth and vermin are prevailing, and the health situation has become unjustifiable. On 1. December 1944 there were about 420 persons sick, mostly from diarrhea and a general debility and weakness of the heart. Since the camp has been in operation 233 deaths are on record (in 8 weeks!); of these only 6 were shot whilst trying to escape, and 6 committed suicide."

With Volk, Baier also knew of the need for guards at the Erzingen labor camp.

Baier's deputy signed many letters for Baier regarding the setting up of camps for prisoners engaged in forced labor. Baier states he did not hate the Jews and never inveighed against them, all of which may be true. Nonetheless, he was an important part of an organization which exploited, oppressed, tortured, robbed and eventually exterminated the Jews.

On January 24, 1944, Dr Horn wrote Pohl, making a report on the Ghetto plants at Litzmannstadt. A copy of this report was sent to Baier. On June 8, 1944, Mumenthey wrote Baier recommending that a diamond cutting factory be established in the Bergen-Belsen concentration camp to be run by Jews, because the diamond-industry of Amsterdam had come to a standstill as a result of the deportation and extermination of the Jewish workers there.

One document (NO-3839) revealed that Baier was called upon to obtain barracks at the Auschwitz concentration camp for

the housing of suitable prisoners to be used by the Getwent, GmbH (Company for Technical and Economical Development, Ltd.).

It is not claimed by the Prosecution that Baier, or for that matter, any of the defendants in this case, physically man-handled Jews, or other detainees of the Reich. But it is maintained with reason that the systematic persecution, impoverishment, confinement and eventual slaying of these persecutees could not have been possible without the vast machinery of the SS, of which the WVHA was one of the most important parts.

The Tribunal finds that Baier, in his position as Chief of Staff W, took a consenting and active part in the exploitation of slave labor. In this he comes quite clearly within the purview of Control Council Law No. 10 defining war crimes and crimes against humanity.

The Tribunal finds Baier guilty under Counts II and III of the indictment.

COUNT IV

The Tribunal also finds him guilty under Count IV.

LEO VOLK

Leo Volk joined the NSDAP on May 1, 1933, stating that this was required of him in order that he might finish his legal education. Further, that on orders of the Young Lawyers' Organization he was compelled to join the Allgemeine SS. In December 1939 he was requested by the SS Main Office Administration and Economy as an expert on legal affairs. According to his statement, he refused to leave his work as information specialist with the Professional Trade Society of German Cities and Communities, and was therefore drafted into the Waffen SS and detailed to legal work in the Main Office III/A-4, of the Main Office Administration and Economy on January 3, 1940.

In the summer of 1941 he was assigned to legal work with the DWB which was part of Staff W. Later he became the head of the Legal Department in Staff W, and acquired, as time

went on, the titles and functions of deputy chief of Staff W, Procurist for DWB and referent or private secretary and legal advisor to Pohl. For one month, in the absence of Hohberg, he acted as Chief of Staff W. Volk was undoubtedly a very busy man. There were so many facets to his unique position that at times he did not know himself in which capacity he was functioning.

Volk's attorney seeks to dim the lustre of his client's versatility and to cry down the importance of his work by stating that Volk merely prepared notarial documents, carried on law suits and generally gave legal advice. The evidence, however, overwhelms this modest appraisal of Volk's capacities. It has been demonstrated by the documents and by Volk's own testimony on the witness stand that he was a vital figure in Amtsgruppe W charged with the handling of vast SS-Enterprises employing unnumbered concentration camp inmates.

It has been argued in Volk's behalf that he cannot be convicted of war crimes or crimes against humanity because the prosecution has not established that he personally ever killed, maltreated or robbed a concentration camp inmate. The prosecution never attempted to prove that Volk directly and physically abused a human being. It has been further argued that in order to convict Volk of any crime it must be shown that, if he knew of maltreatment of concentration camp inmates, he had to have the power to prevent the maltreatment in order to be convicted of crime. The law does not require that the proof go so far. It is enough if the accused took a consenting part in the commission of a crime against humanity to be convicted under Control Council Law No. 10. If Volk was part of an organization actively engaged in crimes against humanity, was aware of those crimes and yet voluntarily remained a part of that organization,

lending his own professional efforts to the continuance and furtherance of those crimes, he is responsible under the law. But it is submitted that he was not aware of any crimes and it is this which the prosecution must establish before it can ask for a conviction.

Volk's contract with the DWB provided:

"It is Herr Volk's duty to manage the business transactions of the DWB with the care as befits a proper business man."

In a letter to Pohl as early as September 1, 1941, Volk displayed his grasp of the entire SS-Enterprise set-up by making recommendations for various changes in business managers and recommending himself as successor to Mummmenthey as manager of Cooperative Housing and Settlement Co., Ltd.

The DWB has been charged with exploiting concentration camp labor, but Volk argues that since the DWB was only a holding company it could not use the services of physical labor. Academically this is correct, but the various subsidiary companies of DWB employed concentration camp labor on a vast scale and Volk could not avoid knowing this. On July 13, 1943, Gluecks, Chief of Department D, wrote Volk about the allocation of prisoners from the labor camp in Neurohlau for the "Bohemia" firm. Paragraph 2 of this letter reads:

"I too considered it advisable that all questions connected with the allocation of prisoners should be settled by a concentration camp and at the beginning of June of this year, I therefore subordinated the detachment of female prisoners from Ravensbrueck to the official supervision of the concentration camp Flossenburg. 'Bohemia' is therefore being cared for, as desired, by Flossenburg only. The camp commanders of both camps have been instructed accordingly and will receive a copy of this letter today."

On February 28, 1943, the defendant, Bobermin, W-1 office chief and manager of the Golleschau Portland Cement Company, which used concentration camp labor from Auschwitz,

designated Volk as Syndikus of this company. In January 1942 in Stutthof Volk participated in a conference having to do with the conversion of the civilian internment camp at that place into a concentration camp. This camp was to house 25,000 inmates including prisoners of war. On January 12, 1942 Volk wrote a long memorandum on the Stutthof concentration camp project. In this memorandum he analyzes in detail the various phases involved in the concentration camp plan, dwelling at length on the lucrative brick works within the area. Volk's inspection of the site, his conferences on the subject, his reports and memorandum demonstrate convincingly his familiarity with concentration camp policy.

In February 1944, Volk accompanied Pohl to Litzmannstadt on the same kind of a mission which had engaged him at Stutthof. The fact that Himmler had, prior to Volk's visit to Litzmannstadt, ordered the transformation of the Ghetto there into a concentration camp, and the later fact that the plan was abandoned does not take away from the charge of the prosecution that Volk was actually involved in concentration camp affairs. And the fact that Volk himself advised against taking over all the enterprises at Litzmannstadt adds to the logic of the prosecution's charge.

In July 1942 Volk attended a conference which had to do with the Hermann Goering works at Linz. A memorandum on this subject points out that inmates of the Mauthausen concentration camp were to be used in erecting a factory which was to utilize the klinker returns of the Linz foundry. The fact that a change in the plan dispensed with the use of prisoners here does not wipe out Volk's knowledge of how concentration camp inmates were being employed.

On December 12, 1944, Volk asked that 79 guards be sent to a labor camp at Erzingen. This certainly would establish that he was aware of the use of prison labor.

Volk denies all knowledge of the presence of prisoners of war in concentration camps. Yet on March 10, 1942, he countersigned a letter from Kammler, Chief of Department C, WVHA, to the Inspector of Concentration Camps, Gluecks, which contains this significant paragraph:

"In view of the increasing shortage of civilian workers the execution of the construction tasks devolving upon the SS-Economic-Administration Main Office in the 3rd year of war 1942 requires the employment of an increased number of prisoners, prisoners of war and Jews."

On July 1, 1943, Mumenthey wrote the commandant of the concentration camp at Flossenbergl that he and Volk were coming to visit him and specifically asked him to make arrangements so that Volk could visit the camp. Volk later denied that he went into the camp but only saw it from a distance, but this does not eliminate Mumenthey's declaration of his (Volk's) interest.

Volk's counsel in his final plea argued that even if concentration camps were employed, this was no crime. He stated:

"It is therefore very doubtful whether the mere use of prisoners for unpaid work alone is sufficient to comply with the definition of the crime of enforcing so-called slave labor."

But, if forcibly depriving a man of his liberty and then compelling him to work against his will without remuneration does not constitute slave labor, then the term has no meaning whatsoever.

Volk seeks to disassociate himself from complicity in the OSTI operation by stating that he was in Switzerland when OSTI was formed on March 12, 1943. However, he attended one of

the first conferences on this project. He states that at this conference, which occurred February 13, 1943, its aims were not obvious and therefore he could not be charged with knowledge of its illegal objectives if any. But the memorandum on the subjects discussed at the conference lists as the first two items: (1) the utilization of the Jewish manpower in the Government General; (2) the utilization of the Jewish movable property.

Since it was obvious that these two utilizations would be without compensation to the Jews involved, the criminal aspect of the operation must have been obvious at once. Volk, however, seeks to explain away his participation in this conference with the statement that he had been summoned to deal with any legal questions which might arise and did not know the subject of this discussion. It is rather difficult to accept that Pohl would ask Volk for a legal opinion without outlining to him the subject matter. Volk goes further and says that he never saw the questionnaire which was the basis for that discussion until the trial!

The evidence establishes that Volk was cognizant of the OSTI operation and the Reinhardt Action. On August 31, 1943, he joined with Baier in requesting a loan of 2,500,000 RM to OSTI. On June 26, 1943, he approved a memorandum signed by Hohberg on the transferring of funds from the Reinhardt fund to the German Industrial firms.

Volk's indefatigable and far-flung efforts in behalf of the SS-Enterprises exploiting concentration camp labor, his close collaboration with Pohl, his initiative and energies exerted for the W-Industries bring him inevitably within the purview of Control Council Law No. 10 defining war crimes and crimes against humanity.

The Tribunal finds Leo Volk guilty under Counts II and III of the indictment.

COUNT IV

It is not clear, however, that Volk is guilty under Count IV. The fact that he had a written contract with DWB would indicate that his connection with the Waffen SS was not as binding as military service implies. The fact also that he did not give up his position with the Deutsche Gemeindetag (German Community Day) when he was drafted into the Waffen SS also attacks the exclusive authority of the SS over his movements. He continued to draw a salary from the civilian firm until May 1941. Volk's connection with the Waffen SS is not sufficiently free of ambiguity to justify the conclusion that it has been established beyond such reasonable doubt as to bring him within the provisions of the I.M.T. decision on this point. The Tribunal, therefore, finds him not guilty under Count IV.

KARL MUMMENTHEY

Karl Mummenthey joined the Allgemeine SS in 1934. In 1938 he became a legal assistant in the Administrative Office of the SS under Dr Salpeter. In 1940, in order to avoid being drafted into the Army he arranged with Salpeter to be taken into the Waffen SS and placed on detached service with the WVHA.

In his direction and management of the German Earth and Stone Works, known as DEST, none of the defendants was more directly associated with concentration camp inmate labor than Karl Mummenthey.

In January 1939, Mummenthey made an investigation of the company, and because of his recommendations, a separate legal department was set up under himself. In September 1939

he became second business manager of DEST, and in September 1941, first business manager. When the Main Office Administration and Economy, and the Main Office Budget and Building amalgamated to form the WVHA, Mummenthey became Chief of Office W-1, and as such continued to control DEST.

DEST had brick works and quarries at the Flossenburg, Mauthausen, Gross-Rosen, Natzweiler, Neuengamme and Stutthof concentration camps. The ceramic works of Allach and Bohemia were also subordinated to Office W-1 under Mummenthey. The gravel works at Auschwitz and Treblinka, the granite quarry at Blizyn, the klinker works at Linz all formed part of the vast DEST establishments employing concentration camp labor. Mummenthey testified that plants subordinated to Office W-1 used a maximum of from 14,000 to 15,000 inmates at one time.

The DEST industries were strictly concentration camp enterprises. Each DEST plant had a works manager appointed by Pohl upon recommendation by Mummenthey. These works managers made monthly reports to Mummenthey's office. Mummenthey frequently visited these plants and often called on the concentration camp commanders. Schwartz and Schondorf, in behalf of Mummenthey, also made periodical inspections of the plants.

Mummenthey's attorney in his final argument before the Tribunal said: "Without the connection with its Holding-Gesellschaft and Pohl's power of command, and without Mummenthey's membership in the SS, the DEST and thereby Mummenthey also, would hardly have to defend themselves before this forum." But it is precisely this which condemns Mummenthey. It is like saying that were it not for a robbery or two a robber would not be a robber. It was Pohl's command, and by his command the entire WVHA is involved, plus Mummenthey's command as an SS

officer, which made DEST what it was, an organization engaged in human slavery and human degradation.

The Tribunal must also renounce defense counsel's contention that Mumenthey did not accept the responsibility of chief of Office W-1. All the evidence points to the contrary.

It has been Mumenthey's plan to picture himself as a private business man in no way associated with the sternness and rigor of SS discipline, and entirely detached from concentration camp routine. The picture fails to convince. Mumenthey was a definite integral and important figure in the whole concentration camp set-up, and, as an SS Officer, wielded military power of command. If excesses occurred in the industries under his control he was in a position not only to know about them, but to do something. From time to time he attended meetings of the concentration camp commanders where all items pertaining to concentration camp routine such as labor assignment, rations, clothing, quarters, treatment of prisoners, punishment, etc. were discussed.

The evidence in this case reveals that there was perhaps no industry which permitted such constant mal-treatment of prisoners as the DEST enterprises.

Prosecution witness Engler, testifying to conditions in the DEST plants at the Sachsenhausen-Oranienburg concentration camp, declared that the inmates worked 12 hours a day, that the food was insufficient, the clothing inadequate and beatings constant, and that because of the heavy work and inadequate food there was an average of from 800 to 900 deaths per month. As a result of a report made by Engler on deplorable conditions at the camp hospital he was sentenced to a punitive company, 6½ days a week. In one month's time 19 out of 65 men in this company died. Engler stated that the average life duration of a punitive company worker was four weeks.

Mummenthey could not help knowing about concentration camp labor in the DEST enterprises. In Sachsenhausen-Oranienburg the inmate workers daily passed by the very building in which Mummenthey had his office. Their poor physical condition was obvious.

The Prosecution witness, Kruse, a German citizen, testifying to conditions at the Neuengamme concentration camp, declared that the monthly death rate in that camp was from 8,000 to 12,000. During the construction period of the Klinker works of DEST, the death rate went up to about 20,000.

Mummenthey called in his behalf the witness Helmut Bickel, a German citizen who served from 1939 to 1940 in the Klinker Works at Sachsenhausen, and from 1940 to 1945 in the Neuengamme Works of DEST. No witness gave a more harrowing account of concentration camp conditions than did Bickel, this defense witness. He testified that the food was not adequate for the work required of the inmates. "Proof of that is the extremely large number of inmates who died directly or indirectly of starvation." He further stated that reports were submitted by the works managers to Mummenthey's office every month and that these reports showed indirectly the intolerable conditions under which the inmates worked and lived. Mummenthey could not have failed to know the plight of the inmate workers.

Bickel described Mummenthey as a "white crow", but it is obvious that he used this characterization because Mummenthey had done him a favor of some proportions. If Bickel is to be believed at all, it cannot be accepted that Mummenthey, amid all these excesses, atrocities and mal-treatment, could remain so white a crow. It is not an unusual phenomenon in life to find an isolated good deed emerging from an evil man. Because of convenience, caprice, or even a sudden ephemeral gleam of

benevolence forcing its way through a calloused heart, even a murderer can help a child to safety. A grim humor can cause a slayer to save his intended victim. But whatever the cause which motivated Mumenthey's benevolence to Bickel, the kind deed is not enough to obliterate his indifference to the wholesale suffering of which he could not but be aware, and to alleviate which, in spite of his protestations, he did little or nothing.

Mumenthey is not an aggressively vicious man. He is too lacking in imagination to conjure up the planning of murder and equivalent enormities. His criminality lies in culpable indifference to humanity, the sacredness of which demands respect in all parts of the world.

Mumenthey attempted to evade responsibility by first stating that there were no atrocities and no inhuman treatment of concentration camp inmates; secondly that if they did occur, they were caused by concentration camp guards over whom he had no control, and further that the treatment of inmates was subject to the supervision of the Messerschmidt and Junkers firms and other employers of inmates. But on cross-examination he admitted that he personally dealt with labor allocation. In fact his monthly report on W-1 for May, 1942 referred to the shortage of 1,500 inmates in the Gusen quarry, but declared that "this calamity" would be overcome when a new shipment of inmates arrived from Auschwitz the following month.

Mumenthey has argued that DEST had nothing to do with food, clothing and billeting for the workers, and that it was impossible for him to know whether or not the inmates ate well since only the midday meal was consumed in the plants. Still he has testified that he was certain the inmates were sufficiently nourished because his plant managers so informed him. He even stated that through the ruse of misleading statements he was

able to supplement the fare of the workers with extra rations. This, in spite of his assertion that so far as he was concerned the workers were well fed.

Mummenthey's defense is almost naive. He stated that he did not know whether the inmates received any monetary compensation for their work. He went so far as to say that he tried to find out but never got a "satisfactory" answer. With the right spirit he could have found the answer in every document that he examined, and in the face of every concentration camp prisoner. Mummenthey's assumed or criminal naivete went to the extreme of asserting that inmates were covered by accident insurance. We can imagine the tragicomic scene of a Polish Jew, half beaten to death by a concentration camp guard, applying to the concentration camp administration for workmen's compensation for the injuries inflicted upon him by the very organization from which he claimed compensation.

Mummenthey even professes an ignorance as to the hours of work required of concentration camp inmates. Aside from the inherent improbability of such a statement the record shows that Mummenthey received a copy of Pohl's order that inmates must work at least 11 hours a day and a half day on Sunday in case of emergency. In his own letter to Baier on May 2, 1944, he revealed his knowledge of the 11 hour rule and said: "I have directed Blizyn to increase the production of the undertaking by making all efforts, and to be particularly anxious that the best use be made of the Polish prisoners."

Mummenthey conceded that he visited the DEST gravel works at Auschwitz in 1940, 1941 and 1943, and at Treblinka in the Spring of 1943. Whether he knew of the Jewish extermination program at Auschwitz is not demonstrated by concrete proof, but it is difficult to assume that with his position and opportunity

for gaining information he could go to Auschwitz and not learn of what was transpiring in the gas chambers and crematoria.

Mummenthey had to know of Osti and its nefarious program. The final audit of OSTI was prepared by one Fischer who said in his statement of the audit: "I received through SS-Obersturmbannfuehrer Mummenthey the order to audit the Ostindustrie."

Mummenthey also professed ignorance about the Reinhardt Action. Yet the Allach ceramic works under Mummenthey received a loan of over 500,000 marks in May 1943 from the Reinhardt fund through the DWB.

Mummenthey could see nothing illegal or improper in the whole concentration camp set-up. He even went so far as to say that at the time he could see nothing illegal or improper in all of Hitler's doings and in all of the Gestapo doings.

Mummenthey's assertions that he did not know what was happening in the labor camps and enterprises under his jurisdiction does not exonerate him. It was his duty to know.

In his defense Mummenthey takes two entirely contradictory positions. One, that the concentration camp inmates were well fed, clothed and housed, and decently treated, and the other that he was constantly engaged in conflict with the concentration camp commanders to improve their lot. The absurdity of the contradiction is obvious, but it goes further than is apparent because the Camp Commanders were themselves plant directors of DEST, and therefore subordinated to WVHA.

In reaching the above findings the Tribunal disregarded entirely the testimony of the witness Krysiak.

The Tribunal finds Mummenthey guilty under Counts II and III of the indictment.

COUNT IV

Because of his undisputed membership in the SS, with all the concomitant features outlined in the opinion of the IMT, the Tribunal also finds Mummenthey guilty under Count IV.

HANS BOBERMIN

Hans Bobermin joined the NSDAP in May 1933 and the General SS in the latter part of that year. In January 1940 he was "called" to the Waffen SS and placed in charge of the Main Department III/A-4, in the Main Office Budget and Building. His rank at that time was SS-Hauptsturmfuehrer. Bobermin, in addition to the duties of his office, served as Deputy to Dr Salpeter, Chief of Division III/A. From October 1, 1940 the Main Department III/A-4 was separated from Office III/A, and in the autumn of 1941 Bobermin's office was designated Amt W-2. In March 1942, when the WVHA came into existence, Bobermin's office became known as W-2.

Bobermin's first and main task in the Waffen SS was to take over, control, and operate some 400 brick works in Poland, confiscated by the Reich with the overrunning, defeat, and conquest of Poland. It was the contention of the defendant that since these properties were located in that territory allotted to Germany in the treaty signed between Germany and Russia, no illegality was involved in the confiscation, at least so far as he was concerned. If this had been out-and-out conquest by Germany of all properties, regardless of private ownership, it would still be clear that Bobermin would not be free of guilt. But here an attempt was made to distinguish between owners. Racial Germans were exempt from the seizure, whereas Poles and Jews lost their property absolutely. They lost it not because they had committed any crime or had received any compensation for it, but simply because they were Jews and Poles.

In a letter drafted for Pohl's signature, Bobermin states on 3 July 1941:

"As a result of the confiscation-order of the Main-Trusteeship-Office East, dated 29.11.1939, 313 brick works with an estimated annual output of 600 million bricks were

seized at the beginning of 1940. As a result of the property-disputes between the communities and the Main-Trusteeship Office East, the community-owned brick works were released from this seizure, but leased to the administration of the General Trustee to ensure an experienced management and a quick development. Out of these originally seized brick works 4 were returned to their owners, who had meanwhile been recognized as racial Germans. Finally, some brick works were handed over to the Reichsworks Hermann Goering after negotiations, as these brick works are in close operation - and economical connection with the mines secured by the Hermann Goering Works. 4 works were given to German repatriates, who could prove to have owned and run brick-work before their resettlement."

Because Bobermin spent most of his time during the war out of Berlin, it may not be assumed that in some way he was disassociated from the WVHA. Many documents were introduced in evidence to demonstrate the close tie-up between him and Pohl. On June 28, 1941, Pohl appointed him as business manager of Ostdeutsche Baustoffwerke GmbH. On September 2, 1941, Pohl appointed Bobermin as his deputy to inspect the former Russian territories for plants producing building material and for places in which new factories might be built. On August 15, 1941, Bobermin, quite proud of his work in reactivating the factory at Krubin, invited Pohl to attend the opening ceremonies which Bobermin described as a "celebration".

Most of the confiscated factories were taken from Jews who either had to flee Poland or were taken into custody and sent to concentration camps or extermination centers. Bobermin denied all knowledge of this wholesale persecution. His witness, Winkler, who was Chief of the Main Trustee Department East, stated that he did not know until late 1944 that many of the Jews whose property he was administering had been killed by the SS and other German forces in the East. Even if we accept this statement at its face value, the fact remains that he did learn of the criminality of

this entire confiscation program, and yet remained in the office engaged in the very criminal venture. Could Bobermin have known less?

The massacre of the Jews in Poland was certainly not a secret. The International Military Tribunal found that "the murder and ill treatment of civilian populations reached its height in the treatment of the citizens of the Soviet Union and Poland", and that one-third of the population of Poland was killed off in the course of the occupation. How much Bobermin knew of these killings is not evident, although it clashes with human observation that he could have lived in Posen in the very heart of the territory where these excesses occurred, without having some awareness of what was taking place. Bobermin explains the phenomenon of the disappearance of the Jews with the observation that it was his impression that they had "fled", but did not know the reason for their flight. He did know, however, that the enterprises under his management would never be returned to their original owners. In the letter already referred to he stated that these properties would be given only to --

"those who are considered worthy by the Reich-commissioner for strengthening the German race in the East", and

"those who deserve preferential treatment for service at the front in this or the World (War); original members of the Nazi movement; those who have done useful work in the reconstruction of the East."

It is not clear from the evidence that concentration camp labor generally was used in operating the confiscated brick works. The labor was allocated to the plants by the Labor Office which office also deported Poles to the Reich. These workers fell within the Reich classification of "free workers". That is to say, they came under Saukel's jurisdiction as Plenipotentiary

for Labor, and the International Military Tribunal has already passed upon the freedom exercised by the average foreign laborer employed by the Reich under Saukel.

However, it is not disputed that Bobermin used concentration camp labor in his plant at Golleschau. As chairman of the Golleschau cement company and as Chief of Amt W-II, WVHA, within whose office the Golleschau plant fell, Bobermin's authority in the Company could not be questioned. Golleschau was located about 70 kilometers from Auschwitz and it was from this notorious concentration camp that the Golleschau workers were drawn. Those who were unable to perform the work to which they were assigned in Golleschau were sent back to Auschwitz to whatever fate might await them. Bobermin attempts to deny responsibility for the employment of concentration camp inmates at Golleschau by stating that the proposal for this employment was made by Pohl. But Pohl was commander-in-chief of all WVHA activities. To here expect exoneration from the charge of criminality on the basis of Pohl's superior command is to demand a certificate of innocence because of Himmler's orders or even Hitler's. Where outright criminality is involved, superior orders are in themselves no excuse, although they may be argued in mitigation of punishment.

In the operation of his many enterprises Bobermin found it necessary to borrow money which came from the funds released through the Reinhardt Action. He, however, claims that he was ignorant at that time of the meaning of the Reinhardt operation. Much of the loot, which finally became the Reinhardt fund, was collected in the very area in which Bobermin's plants were operating. In view of his use of inmates from Auschwitz in the Golleschau plant, his high position in the SS, his close

association with Pohl, his presence in Posen when Himmler delivered his famous speech (although Bobermin denies having heard it), it is incredible that he would not know at the time the meaning of the Reinhardt Action.

In April, 1944, Bobermin was transferred to Hungary as SS Wirtschaftler, or Economic Administrator, bound to Pohl. In this capacity he supplied the SS and Police Units with money, clothes and incidentals. Here he learned of the transportation of Jews out of Hungary, but he states that he did not know they were being consigned to concentration camps or extermination centers. In any event, he affirms that he had no power to prevent the forced movement, even had he been aware of the destination of the Jews. The Tribunal accepts this explanation in the absence of any proof in the record to the contrary.

The Tribunal finds Bobermin guilty under Counts II and III of the indictment.

COUNT IV

The Tribunal also finds Bobermin guilty under Count IV.

HORST KLEIN

Horst Klein studied law at the universities of Lausanne, Freiburg and Bonn, and in February 1933 finished his studies and passed his final examination as probationer. He worked in various courts looking toward a judicial career, but abandoned this intention when, as he stated, he observed that under Nazi rule the judges were denied complete independence of judgment and decision. In 1937 he became an assessor and then obtained employment in the bookkeeping branch of the DUERKOPP-WERKE. In February 1938 he took up employment with the "Society Sponsoring and Maintaining German Cultural Monuments, Registered Corporation".

He joined the NSDAP in May 1933 but held no honorary or functional office therein. In the same year he joined the Allgemeine SS. He never became a member of the Waffen SS. In February 1945 he was about to be inducted into this organization but the induction never materialized.

In 1939, the Society Sponsoring and Maintaining German Cultural Monuments was incorporated into the administration of the SS under the name of HS-1 (Main Department for Special Tasks). In 1940 Klein became Chief of this department. In 1942 when the WVHA came into being, Main Department HS-I was designated Amt W-VIII with Klein as its Chief.

Although Amt W-VIII was definitely an integral part of the WVHA and answerable to Pohl, it is not apparent that it was active in any aggressive way or that it forms part of the pattern of concentration camp inmate exploitation. This office had no connection with SS-industries. Its work fell rather into the category of cultural and social welfare. In addition to directing the affairs of the society above-mentioned, Klein also managed the Society of Convalescent Homes for Natural Recovery and Standard of Life which operated convalescence homes for women and children and administered SS-hospitals. Then there were two other organizations under his charge, the EXTERNSTEIN and the KING HENRY establishment, the former devoted to the preservation of an old Germanic early Christian relic and the latter to the maintenance of the Cathedral at Quedlingburg. All these activities could have been effectively pursued outside the WVHA, and they were not an indispensable part of the machinery of the WVHA. These organizations brought no monetary returns to the coffers of the Reich. The direct opposite is true, since they were subsidized by the State.

It has been charged by the Prosecution that Klein was responsible for excesses in the labor camp at Wewelsburg, but the proof before the Tribunal exonerates Klein from responsibility in that connection. He never managed or directed this camp. Several former inmates of Wewelsburg testified in court that they not only never saw Klein in the camp, but never heard his name mentioned. The evidence would further establish that the Wewelsburg camp was not controlled by Klein, but by SS Obergruppenfuehrer Taubert. Further, that in the construction job itself which was being done at Wewelsburg, the man in charge was the architect SS Standartenfuehrer Bartels. Bartels had immediate control over the 500 men employed here and Klein had no authority whatsoever over them. In addition, Bartels had a rank superior to Klein's.

The construction work at Wewelsburg, which had to do with the restoration of a castle, was ordered by Himmler and the chain of command from Himmler to Bartels did not even go through Pohl, Chief of the WVHA. The only objective part played by Klein in this entire project was the acquisition of the site, but there was nothing in the plan of taking over the real estate which indicated to Klein that a forced labor camp would go into operation here. On the contrary, his only information was that the land was to be used for enlargement of the castle area and future SS settlements.

The prosecution has charged Klein with obtaining credit on the Dresdner Bank for the financing of the Wewelsburg construction work. But when Klein entered this financial deal, the credit had already been obtained at the bank, the initiative having been taken in this respect by General Wolff on Himmler's orders. The sums which were then made available by Klein were

used by Bartels who, on orders from Pohl, was not required to make any accounting for them to Klein.

The Tribunal also finds that Klein's participation in the matter of the acquisition of the Lakowicz property did not involve the commission of a war crime or crime against humanity. The little part which Klein had to do with this acquisition followed in point of time its confiscation by another Reichs Agency with which Klein was in no way connected.

Nor is there any connection between Klein and the pamphlet "The Subhuman", placed in evidence by the prosecution. Although this unsavory document was published by the Nordland Publishing Company, of which Klein had at one time been legal advisor and Prokurist, his connection with this organization had been severed a year or two prior to the appearance of the pamphlet.

Although Klein was a member of the SS, his conduct and attitude as it has come to us through the evidence did not reveal any fanatic adherence to the Nazi ideology. In point of fact, he got into personal difficulties himself because of his failure to cooperate whole-heartedly with the Nazi program. On October 1, 1944 he was arrested because of a statement he had made criticizing certain practises of the Third Reich and the SS. An immediately ensuing illness which kept him confined to his home under guard and under observation saved him from trial and a possible severe penalty. His own sister, Frau Helga von Rouppert, was also arrested, denounced by the Gestapo and committed to the concentration camp at Ravensbrueck. Her crime also consisted of derogatory remarks against the Reich. One specific statement had to do with her criticism of the German generals for not having deposed Hitler as the Italians had ousted Mussolini. Frau von Rouppert testified in court and

stated that her husband was also persecuted by the Gestapo, and, in order to avoid arrest, with attendant torture and degradation, committed suicide. Klein states that his own father died as the result "of all this excitement".

From all the evidence in the case the Tribunal concludes that Klein is not guilty under Counts II and III of the indictment.

COUNT IV

Under the interpretation of the IMT decision, pointing out the factors required to convict an SS member of criminality, the Tribunal concludes that Klein does not fall within the category specified and therefore finds him not guilty under Count IV.

/s/ _____ ROBERT M. TOMS
Presiding Judge

/s/ _____ FITZROY D. PHILLIPS
Judge

/s/ _____ MICHAEL A. MUSMANNIO
Judge