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### Final Brief Against the Defendant Gustav Adolf Steengracht von Moyland

Telford Taylor  
*Chief of Counsel for War Crimes*

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M I L I T A R Y T R I B U N A L I V

CASE NO. 11

THE UNITED STATES OF AMERICA

v.

ERNST VON WEIZSAECKER, et al.

FINAL BRIEF  
AGAINST THE DEFENDANT  
GUSTAV ADOLF STEENGRACHT VON MOYLAND  
ON  
COUNT V.  
WAR CRIMES AND CRIMES AGAINST HUMANITY  
FRANCE AND DENMARK

Nurnberg

15 November 1948

BY: Robert M. W. Kempner,  
Director, Political  
Ministries Division.

and

H. W. William Caming  
Deputy Director,  
political Ministries  
Division.

OF COUNSEL:

Henry Einstein  
Arnold Buchtal

FOR: Telford Taylor  
Brigadier General, USA  
Chief of Counsel for  
War Crimes



TABLE OF CONTENTS.

	<u>Page</u>
I. Introduction.	1
II. STEENGRACHT's position and responsibility	2-10
III. War Crimes and Crimes against Humanity	11-40
A. France	11-25
1) Unlawful arrests of French Nationals and Deportations to Concentration Camps in Germany	11-19
2) Murder of Frenchmen under the Pretext of Reprisal Measures.	20-25
B. Denmark	26-40
IV. Conclusion	41



## I. INTRODUCTION.

Under Count V of the Indictment the defendant STEENGRABT is charged of having committed War Crimes and Crimes against Humanity, as defined by Article II of Control Council Law 10, in that they participated in atrocities and offenses, including murder, extermination, enslavement, deportation, imprisonment, killing of hostages, torture, persecutions on political, racial and religious grounds, and other inhuman and criminal acts against German nationals and members of the civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by Germany, plunder of public and private property, wanton destruction of cities, towns and villages, and devastation not justified by military necessity.

This Trial Brief will set forth the evidence on STEENGRABT's participation in War Crimes and Crimes against Humanity committed against nationals of occupied France and Denmark. In two separate Trial Briefs we will analyse the evidence of his participation in the murders of millions of Jews and his participation in the maltreatment and killing of Allied Prisoners of War.



## II. STEENGRACHT's POSITION AND RESPONSIBILITY.

STEENGRACHT, in an affidavit of 20 November 1947, Pros. Exh. 1189, Doc. Book 1, P. 40-a, made the following statement about his personal data:

- 1.) I was born on 15 November 1902 in Moyland district Cleve.
- 2.) I spent the first years of my life partly in Germany, partly in France, attended elementary school in Moyland and subsequently the high school (humanistisches Gymnasium) in Cleve. Imatriculated at Easter 1922.
- 3.) After this I did agricultural work and at the same time studied Agriculture, National Economy and Jurisprudence at the Agricultural College in Bonn-Poppelsdorf, Bonn University, Lausanne and Cologne respectively.
- 4.) In 1926 I passed the Junior Lawyer's exam at the District Court of Appeal in Cologne.
- 5.) In 1929 I graduated as Doctor of Law at the University of Cologne.
- 6.) At the beginning of 1933 I passed the Main State Law examination at the Supreme Court of Appeal Berlin, and was appointed Assistant Judge. (Gerichtsassessor)
- 7.) From 1926 until 1933 I worked at the District Court Cleve and at the District Court of Appeal in Duesseldorf, and in between I was on leave for a long period in order to manage my agricultural estate and to perfect my knowledge of languages.
- 8.) During this time I was also legal advisor to the Free Farmers' Association in Cleve until approximately 1933.
- 9.) After this organisation had been incorporated into the Reich Farmers' Association I retained the same position in the district farmers' union Cleve and was local Farmers' Leader in 1935/36.
- 9.) In 1936 I became Agricultural Attache with the German Embassy in London under the then Ambassador von Ribbentrop.
- 10.) Following this, I was working in the Records Division with the Embassy in London. I continued working in this department under Ambassador von Dircksen when Ambassador von Ribbentrop was recalled to Germany.
- 11.) In September 1938 I was transferred to Berlin, and after being appointed Legation Secretary worked in the records section.
- 12.) I was appointed Legation Councillor in April 1939.
- 13.) From September 1939 onwards at first temporarily I took over the technical direction of the local headquarters of the then Foreign Minister von Ribbentrop as a member of the records section.
- 14.) From the middle of May 1940 in the same capacity I was once more entrusted with the technical direction of the local headquarters. Owing to the fact that the offices were separated from these in Berlin the local headquarters became an independent unit. In this way I became a member of the personal staff.
- 15.) When the chief adjutant was conscripted to military service I assumed his position as a deputy in 1941 and was promoted to minister first class. I retained the same position until 1943.



- 16.) From May 1943 I was State Secretary of the Foreign Office having my headquarters in Berlin.
- 17.) I was a member of the "Stahlhelm" since 1928.
- 18.) Owing to the incorporation of the "Stahlhelm" into the SA, I became a member of the SA and in the same year joined the NSDAP.
- 19.) For a period of approximately 5 months at the turn of the year 1935/36 I deputized for the local Ortsgruppenleiter in my native village.
- 20.) Owing to my appointment as State Secretary, the rank of an SA Brigadefuehrer was conferred upon me on 20 April 1944. This was a so-called honorary rank."

The most important date of STEENGRACHT's career is his appointment as State Secretary of the Foreign Office on 5 May 1943, when he became Weizsaecker's successor, a position and function he kept until the end of the war in May 1945. Before that date he had been Ribbentrop's Private Secretary, Adjutant and Master of Ceremonies for several years (Ex. C-434, Doc. Book 205, P. 123), even as far back as during Ribbentrop's Ambassadorship in London his only distinction being that he attracted the favorable attention of his boss.

In May 1943, his cordial relation with Ribbentrop bore spectacular fruit: STEENGRACHT was catapulted from his position of a personal assistant to State Secretary and Deputy of the German Foreign Minister. All confidential information e.g. cables and reports from the German representatives abroad were submitted to the State Secretary before they went to Ribbentrop. (Exh. 1526, NG-4949, Doc. Book 1). STEENGRACHT perused not only the diplomatic reports, but the summaries of foreign broadcasts which were compiled in the "Sea House" listening station, the reports of the SD and the daily bulletins of Goering's special monitoring service. (Tr. p. 10640). To complete his briefing, he presided over the daily Directors' Conference at which all worthwhile new items, both domestic and foreign were analyzed and evaluated. (Exh. C-417, NG-5083, Bk. 205, P. 1).

As State Secretary, STEENGRACHT was the top-ranking foreign service official, next to the Minister, controlling the whole German diplomatic machinery. During the war, Ribbentrop spent most of his time at his Field Headquarters, which was sometimes hundreds of miles away from Berlin. (Tr. p. 9895). During all this time STEENGRACHT was in charge of the Foreign Office in Berlin, which handled the bulk of all political affairs.



It is difficult to spend much time arguing that the highest ranking official permanently controlling the Foreign Office and hundreds of Ambassadors, Ministers, and diplomats abroad and at home, was more than a ventriliquist's dummy without becoming a little self-conscious. Merely to state such a contention is enough to refute it. The Third Reich did not pay STEENGRACHT an annual salary of 68,600 RM simply to obtain the services of an inexperienced office-boy. (Ex. 301, NG-4150, Bk. 74-A, P. 110). But since STEENGRACHT has expended so much energy in his attempt to emphasize that, the only differences between the State Secretary and the janitor in the Foreign Office were their wardrobes and monthly salaries, we are forced to devote some time to this subject.

What were STEENGRACHT's official duties? As Acting Chief of the Foreign Office, he was the superior and supervisor of all its various Divisions, including the Political, Economic, Legal, and Press Divisions, as well as Departments Inland I and II (Woermann Ex. 5, Woermann Doc. Bk. 1, P. 60). All these Divisions were subordinated to the Minister and his permanent Deputy.\* (Ibid., P. 59-80). The Political Division was in charge of foreign relations and coordinated the political activities of the other Divisions. (Ex. 3658, NG-3341, Doc. Bk. 99-A, P. 7). STEENGRACHT's Under Secretary, Andor Hencke, served as Chief of the Political Division. He testified as a defense witness that STEENGRACHT was his superior (Tr. p. 19484), and that he submitted matters which were not "routine" to STEENGRACHT. (Tr. 19466). STEENGRACHT was instructed by Ribbentrop at the outset that he had to enforce "discipline" among the officials of the Foreign Office in Berlin. (Tr. 9772). STEENGRACHT, as Ribbentrop's Deputy, was the disciplinary superior of all the officials and employees of the Foreign Missions, such as, for example, the members of the staff of the German Embassy in Paris. (Tr. 10639).

Further, as time went on, STEENGRACHT increasingly took over the task of meeting foreign diplomats, and dealt with their diplomatic complaints and representations. It was STEENGRACHT who told the Swedish Minister, after he had lodged a strong protest against the deportation of Danish Jews, that such protests were none of Sweden's affair. (Ex. 1672, NG-4093, Bk. 60-B, P. 29).

\* "Staeendiger Vertreter". This was mistranslated "permanent representative". It should read: "permanent deputy".



At the time STEENGRACHT was appointed he was also instructed by Ribbentrop that it was his duty "to protect the interests of the Foreign Office against all other agencies with ruthless energy". (Tr. 9772). He did so with a large amount of power and discretion.

In the course of this trial the struggle of the Reich Plenipotentiary in Denmark, Best, to obtain more police personnel was widely discussed. This affair started with an assault upon a German officer in Denmark on August 25, 1943, (Ex. 3619, NG-5106, Bk. 98-A, P. 45) at which time there were comparatively few members of the German police or Security Units in the country, although as a result of Best's repeated requests to the Foreign Office, one battalion of police troops had been dispatched to Denmark during spring or early summer of 1943. (Tr. 26812). After this Danish Governmental crisis and the declaration of a state of emergency by the German Army which followed the incident on 25 August, Best demanded additional German police for Denmark. The transfer of so many police to Denmark seemed to imply the appointment of a Higher SS and Police Leader there. The Foreign Office, in passing Best's demands on to the RSHA, mentioned the possible establishment of such a post. (Ex. 3628, NG-3974, Bk. 98-A, P. 75). Originally, Best wanted to occupy this position himself (Tr. 26845), but Ribbentrop crushed this ambition because he objected to Best's simultaneously holding two positions, each of which would have required separate lines of control. (Tr. 26845).

At this point STEENGRACHT entered the picture. He negotiated with Ernst Kaltenbrunner, the Chief of the RSHA, on the relationship between the Higher SS and Police Leader and the Foreign Office representatives in Denmark, France and the Southeast. One such conference took place on November 7, 1943, when Kaltenbrunner came to the Foreign Office and had a conference with STEENGRACHT. (Ex. 3614, NG-5036, Bk. 98-A, P. 8). Before that, they had agreed that a certain SS General, Pancke, should be appointed as the Higher SS and Police Leader for Denmark. (Tr. 18106). As soon as Pancke took over, Best complained that he had received no written confirmation that Pancke was <sup>to be</sup> subordinate to him. (Ex. 3630, NG-5455, Bk. 98-A, P. 82). STEENGRACHT again acted as arbitrator, and quickly arrived at a working solution with Kaltenbrunner. (Ex. 3630, supra).



STEENGRACHT played a similar role with respect to France. There, a three-cornered jurisdictional dispute had arisen between the various German police and security agencies subordinate to Kaltenbrunner, the military agencies subordinate to the Military Commander West, and those subordinate to the German Foreign Office. At that time Minister Schleier was the German Minister in France, in lieu of the temporarily absent Ambassador Abetz.

STEENGRACHT interceded with Kaltenbrunner and managed to find an acceptable compromise which "protected the interests of the Foreign Office." (For a summary of this conference, see Ex. 3614, supra.)

In September 1943, STEENGRACHT went to Sofia, ostensibly for the purpose of attending the funeral of King Boris of Bulgaria. The documents reveal, however, that the real purpose of his trip was far more significant than this. STEENGRACHT was concerned with the state of King Boris' health for some time, since it became known that the King was not too enthusiastic about Germany. (Ex. C-418, NG-100, Doc. Bk. 205, P. 4). After the mysterious death of King Boris, not long after his visit to Hitler, STEENGRACHT went to Sofia and remained there until the Cabinet was regenerated. And a new course of friendly policy toward Germany was installed by the Regency Council (Ex. C-418, supra; Ex. C-419, NG-092, Doc. Bk. 205, P. 9; Ex. C-420, NG-116, Doc. Bk. 205, P. 19).

Our purpose in mentioning these three incidents is limited for the time being. Their significance here is that they show conclusively STEENGRACHT's importance and to what extent Ribbentrop relied on his judgment and discretion.

STEENGRACHT had been entrusted by Ribbentrop with "protecting the interests of the Foreign Office against other agencies with ruthless energy". (Tr. 9772). In the foreign affairs just mentioned he managed to do exactly that, also neither the agency with which he was dealing (RSHA) nor its Chief (Kaltenbrunner) was the softest conceivable opponent. In his assignment in Sofia, in lieu of Ribbentrop, STEENGRACHT proved himself as an effective State Secretary of Foreign Affairs.



The mainstay of STEENGRACHT's defense is that he was a mere courier or mail-distributor; that every decision of any importance was made in Ribbentrop's field headquarters; and that he, STEENGRACHT, has almost no voice in shaping the course of events. This exaggerated self-disparagement to mere clerkships and mailmen is a standard defense in Nuremberg, but it is hardly available to STEENGRACHT because it is contradicted by his own testimony:

"Q. Was it, for instance, possible for a departmental chief or Referent to make a decision independently, without having first talked to you about it?

"A. There is, and there were, never any fixed regulations in the Foreign Office as to what an official could decide for himself and what he had to submit to his superior. That is left to the proper discretion of every individual official, so theoretically it was possible for the lowest official, that is, the lowest senior official, starting with the rank of Senior Legation Secretary, to make the most important of decisions. That is theoretically possible.

"Q. And it did actually happen?

"A. Yes, it happened under certain conditions, and that was no infringement of existing regulations." (Tr. 9787).

In the course of STEENGRACHT's activities described above, he acted on his own responsibility and handled the most delicate political matters according to his own best judgment without any direction from anyone. But his importance as chief of the German Foreign Office in Berlin since 1943 does not end with his own personal accomplishments, more with his position at the head of the Foreign Office hierarchy. His influence on Ribbentrop is perhaps even more significant. It has already been pointed out that STEENGRACHT was a personal protege of Ribbentrop. But the flow of ideas between the two men was not onesided. There is undisputed testimony that STEENGRACHT was a personal friend of Ribbentrop; that they spent much time in each other's company; that Ribbentrop



felt a unique confidence in STEENGRACHT's ability, loyalty and discretion, and that he was in a better position than anyone else to exert a noticeable influence on Ribbentrop's decisions. We quote:

"...I often used to undertake walks with Ribbentrop... It seemed to me that that moment was a favorable one, Ribbentrop also being in a good frame of mind, to draw his attention... And here again I had to utilize his mentality, to tell him that he would be able to make a great name for himself and at the same time he would probably earn the gratitude of Europe, possibly." (Tr. 9758).

This statement shows STEENGRACHT's great ability to handle and influence Ribbentrop at the right moment.

One of STEENGRACHT's functions was to attend interdepartmental meetings between the chiefs of various Reich ministries and other important agencies. He did so in lieu of the Minister. (Exh. 4730, NG-1510, Bk. 91, p. 51).

Ribbentrop's confidence in STEENGRACHT is conclusively shown by the fact that that he before being appointed to the State Secretaryship was the top liaison official between the Foreign Minister and Hitler. The defendant's testimony on this point reads in part:

".. Before that date there were two or three incidents in which Ribbentrop gave me a special assignment. This consisted in my having to go to Hitler and I had to submit matters to him which Ribbentrop had drawn up and elaborated upon..." (Tr. 9754).

STEENGRACHT, as State Secretary of the Foreign Office had important responsibilities in occupied and satellite countries. The general position of the German Foreign Office with respect to the control and administration of occupied territories has been described by the International Military Tribunal.



"Von Ribbentrop is also responsible for war crimes and crimes against humanity because of his activities with respect to occupied countries and Axis satellites. The top German official in both Denmark and Vichy France was a foreign office representative, and von Ribbentrop is therefore responsible for the general economic and political policies put into effect in the occupation of those countries..." (Trial of Major War Criminals, Vol. 1, P. 287).

The top German official in Denmark referred to by the IMT was the Reich Plenipotentiary, Werner Best. The official in Vichy-France was Otto Abetz, who held a double-barrelled title as Ambassador to the Vichy French Government, and as political advisor to the German Military Commander in France. This, of course, meant that Abetz was the politically most powerful figure in France during the occupation.

The tasks and functions entrusted to Abetz and Best have been described at some length in Exhibit C-421, Doc. NG-5515, Book 205, P. 24/25; an affidavit by Erich Albrecht, who was chief of the Legal Division of the German Foreign Office. We quote:

"The tasks of Abetz and Best, therefore, exceeded considerably the usual scope of tasks of diplomatic representatives, namely, to negotiate with the receiving state and to report on the political, economic, cultural and other developments. Abetz and Best, in their agencies, were subordinated in reference to their complete activities, to the Reich Foreign Minister and the Foreign Office. As far as members of the Foreign Office were authorized to sign instructions to the German Missions abroad, this authority was not restricted, as far as the offices of Abetz and Best were concerned, to such matters which belonged to normal business of diplomatic missions but comprised all matters which belonged to the task of both. Within the Foreign Office these matters of the extended, as well as of the normal business, were worked on corresponding to their character as political, economic, legal or propaganda matter, etc., by the competent divisions. Also, so far as reports to the Secretary of State and to the Minister were concerned, matters of the extended scope of task were treated in the same manner as those which belonged to the usual diplomatic tasks. The above is a description of the normal course of business. There were, naturally, exceptional cases when Abetz or



Best was received personally by Hitler, reported to him, and received instructions from Ribbentrop directly, while reporting in person. But aside from these cases which were, on the whole, exceptions, the course of business for Abetz and Best was carried on through the usual channels of the Foreign Office; especially the State Secretary was taking part according to the usually adopted procedure. Abetz and Best frequently made use of the possibility to state in their reports that they desired them to be submitted to the Reich Foreign Minister..."

In the course of subsequent examination the witness Albrecht elaborated on the Foreign Office Staff who were authorized to sign instructions to Abetz and Best. He stated:

"Q. Who were the authorized persons to sign instructions?

"A. The State Secretary, the departmental chiefs and their deputies, senior legation and those counsellors or section chiefs "Referatsleiter" who held a special general authority to do so." (Tr. 26675).

STEENGRACHT was the immediate supervisor of Abetz and Best. In May 1944, he summoned Abetz from Paris to Berlin, for the purpose of upbraiding him for not having taken reprisal measures against the French population for the shooting of Tunis fighters by members of the French resistance movement in North Africa. (Exh. 1482, NG-3307, Bk. 50, p. 82). In July 1944, STEENGRACHT summoned Best to Berlin for a similar interview. When Best suggested "reprisal murders", STEENGRACHT remarked approvingly that he "considered them useful". (Exh. 1500, NG-4880, Bk. 52, p. 27).

Since STEENGRACHT was the second highest official in German Foreign Affairs, he had a tremendous power to do good or evil to the millions of inhabitants of German-occupied territory. In the following chapters we will submit evidence stating that STEENGRACHT used his power for evil purposes and participated in the most outrageous War Crimes and Crimes against Humanity.



### III. War Crimes and Crimes against Humanity.

#### A. FRANCE

##### 1. Unlawful Arrests of French Nationals and Deportations to Concentration Camps in Germany.

In paragraph 42 of the Indictment, STEENGRACHT is charged with the co-responsibility for the following crimes:

"In furtherance of the German Reich's program of 'pacification' of the occupied territories through terrorism, the arrest, imprisonment, deportation and murder of so-called hostages was effected. Jews, alleged Communists, 'asocials', and other innocent members of the civilian population of the occupied countries not connected with any acts against the occupying power were taken as hostages and, without benefit of investigation or trial, were summarily deported, hanged, or shot. These innocent victims were executed or deported at arbitrarily established ratios for attacks by person or persons unknown on German installations and German personnel in the occupied territories. In many cases the recommendation and approval of the German Foreign Office, with the participation of the defendants WEISSLECKER, STEENGRACHT, BOHLE, WOERMANN, RITTER, IRDMANNSDORFF, and their representatives, was required prior to the execution of these measures and the necessary diplomatic 'cover-up' was effected to conceal the nature of these crimes."

The International Military Tribunal stated concerning ill-treatment of civilian population:

"Murder and ill-treatment of civilian population: Article 6 (b) of the Charter provided that 'ill-treatment of civilian population in occupied territories, ... killing of hostages..., destructions of cities, towns or villages' shall be a war crime. In the main, these provisions are clearly declaratory of the existing Laws of War as expressed by The Hague Convention, Article 46, which stated: 'Family honor and rights, the life of persons and private property, as well as religious convictions and practice must be respected.'"

"The territories occupied by Germany were administered in violation of the Laws of War. The evidence is quite overwhelming of a systematic rule of violations, brutality and terror." (Vol. I, p. 232).



"Even persons who were only suspected of opposing any of the German policies of the German occupation authorities were arrested and, on arrest were interrogated by the Gestapo and the SD in the most shameful manner.

"The brutal suppression of all opposition to the German occupation was not confined to severe pressure against suspected members of resistance movements, but was also extended to their families." (Trial of the Major War Criminals, Vol. I, p. 233).

The IMT further found that the defendant Ribbentrop was generally responsible for war crimes and crimes against humanity:

"...because of his activity with respect to occupied countries and Axis satellites. The top German official in both Denmark and Vichy-France was a Foreign Office representative and von Ribbentrop, therefore, responsible for the general economic and political policies put into effect in the occupation of those countries." (Trial of the Major War Criminals, Vol. I, p. 287).

The arrest and subsequent deportation to Germany of many thousands of French nationals were criminal for a variety of reasons. The evidence demonstrates with clarity that French civilians were arrested and incarcerated under flimsy pretexts, either without any cause whatsoever or on some vague and general suspicion. As the IMT held:

"In the administration of the occupied territories the concentration camps were used to destroy all opposition..." (Trial of the Major War Criminals, Vol. I, p. 234)

Furthermore, the deportation to Germany of civilian populations in occupied territories constitutes per se a serious international crime. Thus, the Tribunal of U.S. vs. Milch, et al, stated that deportation was illegal "where people are deported from a country occupied by the invader while the occupied enemy still has an army in the field and is still resisting."

Another condition under which deportation becomes illegal occurs, according to the same opinion "whenever generally



recognized standards of decency and humanity are disregarded. This flows from the established principle of law that an otherwise permissible act becomes a crime when carried out in a criminal manner." Both rules automatically stamp as criminal the deportation to Germany of thousands of Frenchmen for which STEENGRACHT is held co-responsible.

The top German official in Vichy, France, was, at the IMT stated, the Foreign Office representative, to-wit the German Ambassador to France, Otto Abetz and during his absence from France his deputy, Schleier. The IMT finding in this respect is fully borne out by the evidence in the instant case which refutes the rationalization of STEENGRACHT and his witnesses Abetz and Schleier who, themselves participants in the same crimes with which STEENGRACHT is charged, would make this tribunal believe that the duties of the Foreign Office representative were limited to the usual diplomatic functions. The evidence establishes that Abetz was the man on the spot in charge of the planning, direction and coordination of Germany's criminal policies in France, which were implemented in cooperation and with the assistance of the SD and of the German Military Administration. For a correct understanding of Abetz' position and tasks it may be well to recall that Vichy, France, was a puppet state with a Mock-Government which was not expected to reach agreements on controversial questions by way of negotiations, but simply to accept and obey Abetz' orders without discussion and to carry them out without delay. When Abetz was appointed "German Ambassador" to the Vichy Government, he was given the clear assignment of controlling the French Government and compelling it to comply with German demands. (Exh. 1686, Document 3614-PS, Doc. Book 60-B, p. 111).

Two more examples will suffice to clarify this beyond all doubt. On 6 December 1943, Ribbentrop instructed Abetz



as follows:" ... the three demands stated in the letter of the Reich Foreign Minister to the Marshal ( Petain ) of 29 November, the acceptance of which demands -- as stated explicitly in the letter- are the prerequisites for further collaboration with the French Government. Therefore, the Reich Government expects the Marshal to forward an immediate ( sans delai ) and unrestricted acceptance -- without any reservations -- of the three demands in question .... I request that you make this demarche verbally ... We consider it absolutely self-evident that the Marshal accept these demands without any hesitation since, as the letter states clearly enough, if he does not accept and fulfill these demands, we shall blame him for the consequences." ( Exh. 3646, NG- 5211, Doc. Book 209, p.30 ).

Another instruction of Ribbentrop requested Abetz to "1) to send Mr. Laval a list of those persons in the French cabinet and those key government officials whose dismissal from office must be demanded, 2) to give a further list of names of those persons holding positions of authority in the administration, etc. who must immediately be replaced by reliable persons, 3) to request Mr. Laval to confirm in writing to the Embassy that the French Government has adopted the necessary measures to insure that all indicated amendments are in future submitted to the Reich Government for prior approval." ( Exh. 3646, NG- 5211, Doc. Book 209, p.42 ). Only four high officials of the Foreign Office received copies of this very important letter: STEENGRACHT, Hencke, Erdmannsdorff, and Renthe-Fink.

Abetz' evil influence upon the destiny of France was of course not entirely of his own making and of his own volition. He was under the direct supervision of the Foreign Office and there the man in charge of the formulation and direction of the policies for France was, next to Ribbentrop, STEENGRACHT.



STEENGRACHT was kept continuously informed by reports from the German Embassy in Paris on reprisal measures against the civilian population in France, and, far from exercising a moderating influence, he backed them up and actively participated in their final formulation and implementation.

A report from the Embassy in Paris, signed by Schleier, and dated 29 May 1943, which was received by STEENGRACHT (as sealed matter) and distributed by him to other divisions, reveals that subsequent to the flight of General Georges, a representative of the Embassy in Paris told Laval and other high German officials "that the Government would finally have to take severe measures against the families of Frenchmen who had joined the resistance and lock them into concentration camps, since the measures connected with deprivation of citizenship were only of a material nature and did not have an intimidating effect"; he further remarked that the German police would soon have to take more severe measures if the French police failed to do so (Exh. 3616, NG-5137(1), Doc. Bk. 98-A, p. 14). A few hours later, Schleier reported to STEENGRACHT--who made the customary distribution of this report to the sections concerned in the Foreign Office--on a conference with the Chief of the Security Police and SD, Knochen, concerning the reinforcement in personnel and weapons requested by the Vichy Police "for special tasks", and on the necessity to exercise increased pressure on Laval to induce him to take "stricter measures against family members of the persons who had joined the dissidents". (Exh. 3616, NG-5137, Doc. Bk. 98-A, p. 16-A).

On 4 June 1943, the German top-ranking civil and military officials in France met in a conference which was presided over by Schleier (Exh. 3617, NG-5130, Doc. Book 98-A, p. 17). General agreement was reached to arrest well-known French



officers (Ibid. p. 19), and to initiate similar measures, as quickly as possible, against relatives of well known personalities who had joined the resistance movement. The transfer of such persons to areas which were particularly endangered by air raids was equally contemplated (Ibid. p. 25). On 6 June 1943, the Deputy Commander-in-Chief West suggested to the OKW, in agreement with the Germany Embassy in Paris and the Commander of the Security Police and of the SD the arrest and deportation of high-ranking French army and air force officers and of "the families of suspicious persons who have already been won over to dissiding groups or will do so in future..." (Exh. 1477, NG-2430, Doc. Book 50, p. 45).

In December 1943, a conference took place in the Foreign Office in Berlin "on the measures to be taken in France". The leading conspirators including Ribbentrop, STEENGRACHT, Abetz, Kaltenbrunner, and others attended. They decided to arrest 2,000 prominent Frenchmen who did not collaborate with the Germans and who might constitute an element dangerous to the German forces. Ambassador Abetz was asked to take up this matter immediately and to compile lists of suitable persons\*. STEENGRACHT supplied the following information with respect to this conference: "...I can only be included in this affair because I took part in this one meeting when it was stated that 2,000 people should be arrested" (Tr. p. 9958. See also pp. 9948 to 9950).

On 15 December 1943, Abetz informed the Foreign Office (the report was again received by STEENGRACHT as a sealed matter) that the SD had completed lists of 1500 persons who were to be arrested in France; 103 of whom held important

\* See IMT Transcript No. 6953-6954, Ribbentrop's cross-examination, Doc. Book 50, p. 49, which we ask the Tribunal to take judicial note of.



positions in the administrative, political, economic, and cultural spheres. Unanimous agreement was reached between the Embassy and the military commanders with respect to 67 persons on this list (Exh. 3646, NG-5211, Doc. Book 209, p. 33). Some of the reasons given in Abetz' report for the planned arrests read as follows: "Opposed to the Reich", "hates the Germans", "helped Jews to safeguard their property", etc. (Ibid., pp. 34-38). A revised and amplified list containing a representative cross-section of Frenchmen in influential positions, was submitted by Abetz to the Foreign Office at the beginning of January 1944, with the comment that the persons marked for preventive arrest "had not been guilty of a proved crime but there are only suspicions of a general nature against them. Immediate arrest has always been carried out when concrete elements of suspicion, even of a minor character, existed. In 1943 alone 34,977 persons were arrested by the German police and 9117 by the French police for Gaullist, Marxist and anti-German activities." (Exh. 3618, NG-5194, Doc. Book 98-4, p. 41).

In response to a Foreign Office inquiry of 18 February 1944, (Exh. 1479, NG-4866, Doc. Book 53, p. 51), Abetz submitted on 23 February a telegraphic report (sealed matter) which proves that the operation was in full swing at that time and that large-scale arrests were being conducted, all based on the lists as they had been previously elaborated (Ibid., p. 52). A number of Government officials, writers, and a university director were arrested on "substantial suspicion" (Ibid, p. 52). The report continues to say:

"After the above-mentioned lists had been compiled and independently from them the Embassy has received information about notoriously dissenting activities by leading officials and has immediately ordered their arrest by the SD.



"Persons arrested on political grounds are being collected in the detention camp Compiègne, and are being at the earliest opportunity deported to Germany. This way during the last weeks alone 1700 prisoners have been transferred to concentration camps in the Reich. On the politically prominent personalities among these prisoners, a supplementary report will follow." (Ibid. p. 53).

The report concludes with the statement that "the total number of arrests by Germans is at present on an average of 4,000 per month" (Ibid. p. 54). Some days later Abetz forwarded to the Foreign Office a list describing 507 out of the total of Frenchmen hitherto arrested and deported to Germany, as being of special "political significance". He added that "A new transport of 1500 prisoners will leave France for Germany next week. All in all 23,000 French police prisoners have been sent to the Reich up to now." (Ibid. p. 71).

In a report from division Inland II to Section Pol II - both of which was subordinated to STEINGRACHT - it was stated on 14 March 1944 that according to information from the Chief of the Security Police and the SD, "The majority of the prisoners arrested in France and shipped to Germany will, in view of their anti-German attitude (for instance, resistance movement) be interned in ordinary concentration camps," and that only prominent personalities would be transferred to special camps. (Ibid. p. 72).

In this crescendo of arbitrariness and terror the number of French arrestees and deportees had by 22 March reached 22,000, as it appears from a memorandum submitted by the head of the Legal Department of the Foreign Office to his superior, STEINGRACHT (Exh. 3618, NG-5194, Doc. Bk. 98-ii, p. 44). Finally a memorandum bearing STEINGRACHT's signature notes on 23 May 1944 that according to Abetz' information 50,000 French people had been arrested and transferred to SD camps in Germany, in addition to a great number of prominent personalities who were also taken in protective custody (Exh. 1482, NG-3307, Doc. Book 50, p. 82).



This is, in short, the story of the conspicuous part played by the Foreign Office and STEENGRACHT in the scheme of intimidation and lawlessness against the French people. STEENGRACHT seeks refuge behind excuses which represent a mixture of evasive double talk and fantastic statements which are in hopeless conflict with the clearly incriminating evidence of the Prosecution. Today he chooses to concoct a fable that he and his colleagues were examples of righteousness and that they used subterfuge and fake reports to counteract the harsh measures of their boss, Ribbentrop. Yet the evidence conclusively proves that he was Ribbentrop's closest collaborator and most willing servant. For some reasons, mysterious and unknown, he claims that he participated in "this affair" only until 18 February 1944 (Tr. 9956). The proof, however, leaves no doubt that he was intimately connected with the program of mass arrests and deportations of Frenchmen ever since he became State Secretary until the abrupt end of his career which was coincidental with the downfall of the Third Reich. By means of some mathematical thaumaturgy he attempts to conjure away the staggering extent of deportations listed in reports which were received by him and in memoranda which were signed by him. He repeatedly chorused that he actually had no share in them. Yet the evidence establishes beyond doubt that the arrests and deportations were carried out with ruthless determination pursuant to a carefully planned and prepared scheme in the formulation and execution of which STEENGRACHT had an instrumental part.

We submit that the Defendant STEENGRACHT is guilty as charged under this count of the indictment.



2. Murder of Frenchmen under the Pretext of Reprisal Measures.

As time went on, the Nazi occupants no longer considered mass arrests and deportations to German concentration camps of innocent or suspected Frenchmen as sufficient deterrent. The spread of intimidation and terror through governmentally directed and planned murder became the device which the German Foreign Office and their associates thought fit for the attainment of the "pacification" of France. It goes without saying that Ribbentrop and his diplomats were anxious to fabricate some legal cloak which was to camouflage their murderous design. The gentlemen of the Foreign Office who displayed a callous disregard for human life, as long as it was that of a Frenchman, of a Dutchman, or of another member of a nation under Nazi domination, regarded the execution of Frenchmen who had fought against de Gaulle's forces as convenient and suitable reason to order the murder of other Frenchmen "in reprisal." Again we find STEENGRACHT and his appointee and protege Abetz together with their accomplices from the SD and the Military Administration as zealous and informed participants in this scheme of murder.

The IMT found that: "... the practice of keeping hostages to prevent and to punish any form of civil disorder was resorted to by the Germans; ... the exact number of persons killed as a result of this policy is not known, but large numbers were killed in France and the other occupied territories in the West..." (Trial of the Major War Criminals, Vol. 1, p. 234)

A recent judicial finding in Nurnberg expressed the following opinion concerning the taking and killing of hostages:

"In the Southeast Case, United States vs. Wilhelm List, et al. (Case No. 7), the Tribunal had occasion to consider at considerable length the law relating to hostages and reprisals. It was therein held that under certain very restrictive conditions and subject to certain rather extensive safeguards, hostages may be taken, and after a judicial finding of strict compliance with all pre-conditions and as a last desperate remedy hostages may even be sentenced to death. It was held further that similar drastic safeguards, restrictions, and judicial



pre-conditions apply to so-called "reprisal prisoners." If so inhumane a measure as the killing of innocent persons for offenses of others, even when drastically safeguarded and limited, is ever permissible under any theory of international law, killing without full compliance with all requirements would be murder. If killing is not permissible under any circumstances, then a killing with full compliance with all the mentioned prerequisites still would be murder.

In the case here presented, we find it unnecessary to approve or disapprove the conclusions of law announced in said judgment as to the permissibility of such killings. In the instances of so-called hostage taking and killing, and the so-called reprisal killings with which we have to deal in this case, the safeguards and pre-conditions required to be observed by the Southeast Judgment were not even attempted to be met or even suggested as necessary. Killings without full compliance with such pre-conditions are merely terror murders. If the law is in fact that hostage and reprisal killings are never permissible at all, then also the so-called hostage and reprisal killings in this case are merely terror murders." (US vs. "Wilhelm von Leeb et al. Judgment, p. 92/93.)

We believe that this constitutes a well considered and correct statement of the legal position.

We went into the foregoing brief recital of law pertaining to the killing of hostages only to demonstrate how flagrantly the provisions of International Law were violated by these diplomats who ought to have known them better than any other German, and how ridiculous STEENGRACHT's contention is that such reprisal actions were permissible (tr. 10072). It will be sufficient for our purpose to point to the clear language of the document in order to prove beyond doubt that the principal conspirators, Ribbentrop, STEENGRACHT and Abetz, being thoroughly aware of the criminality of the enterprise, attempted to justify their acts with some pseudo-legalistic semblance. Moreover, it is stressed that STEENGRACHT and his partners had no business whatsoever to cause innocent Frenchmen to be murdered in so-called reprisals for the execution of French traitors (so-called Tunis-Fighters) who had been sentenced to death by French tribunals in North Africa.



On 6 April 1944 the German Embassy in Paris forwarded to the German Foreign Office a report designated as "Execution of veterans of the Tunis campaign - counter operation" - which was received, as were all sealed matters, by STEENGRACHT (Ex. 1526, NG-4949, Doc. Bk. I) and distributed by him to the departments concerned for further handling of the matter. Here it is stated, in part, as follows:

"Another conference with Gruppenfuehrer OBERG showed the following: 1.) Prominent persons arrested for dissident views, connections or acts and suitable for reprisals are without exception held within Germany. The Higher SS and Police Leader in France is no longer responsible for these persons. People in our custody here have no real importance. The announcement of their special treatment as a reprisal for the execution of the sentences pronounced in Algiers, will not deter the Committee in Algiers from instituting proceedings and executing the sentences. Gruppenfuehrer OBERG has therefore suggested that the Foreign Office should request the Reich Security Main Office to furnish a list of names and that the matter be immediately dealt with in Berlin." (Ex. 1481, NG-2595, Doc. Bk. 50, page 78.)

It was further added that SS Obergruppenfuehrer OBERG, the Higher SS and Police Leader in France, "promised to supply as soon as possible a list of prominent Frenchmen suspect of anti-German feelings and connections with de Gaullist elements whose arrest as a reprisal for the Algiers sentences might be considered..." (Ex. 1481, NG-2595, Doc. Bk. 50, page 79).

Quick action followed to put this blue print into effect. On May 13, 1944, STEENGRACHT received another report from Abetz stating that five Frenchmen were executed on 4 May in reprisal for the execution of a Frenchman in North Africa, subsequent to the passing of a death sentence by a court in territory under de Gaulle's control. The report goes on to say that the five executed Frenchmen "were not found carrying arms and would not have been shot right away, but by their presence on the Plateau de Glierea have proved sufficiently that they were in connection with the rebels" (Ex. 1480, NG-3065, Doc. Bk. 50, p. 74) and there after Abetz suggested to his bosses







The Reich Foreign Minister considers it an important task of Ambassador Abetz to find such persons and to induce Laval to shoot them."

(Ibid, pp. 57-58)

A memorandum, compiled by STEENGRACHT, on his conference with Abetz, dated 23 May 1944, discloses the results of their discussion. STEENGRACHT himself aptly designated this document as a "ghastly report" (Tr. 10076) and he did by no means indulge in an understatement in this characterization. At first, STEENGRACHT and Abetz looked back to things so far achieved:

"50,000 Frenchmen either suspected or accused of dissident intrigues had been arrested and transferred to the custody of the Security Service (SD)."

(Ex. 1482, NG-3307, Bk. 50, p. 82.) The next item on the agenda was the scheme of reprisal killings of Frenchmen. Abetz remarked that, owing to the large-scale arrests, no prominent dissident leaders were at large in France and available for execution. He went on to say that "of course the SD could hand over notable personages to the French Government without any difficulty, and those persons could be shot by way of reprisal. However, these persons would then be out of German hands." (Ibid).

STEENGRACHT did not seem to attach too much importance to such technicalities, and disagreed with his subordinate. "I pointed out that it was not important where the people came from, but who executed them. They had to be executed exclusively by the French authorities." (Ibid).

Other points of interest discussed between STEENGRACHT and Abetz were:

". . . among the men in honorable custody, BLUM, MANDEL, and REYNAUD were most prominent. It was only on this account that he had mentioned their names. Should there not be any other privileged prisoners either, Ambassador ABETZ suggested shooting NEGRE, CHALVERON and some of the remaining wire-pullers of the Super-Nap organization immediately after interrogation, and to keep others in reserve, by way of reprisals, as the Algiers Committee might have a personal interest in them."



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" On 17 May Ambassador Abetz told Gruppenfuehrer Oberg and Standartenfuehrer Knochen that the Foreign Office approved of the intention of the Reich Security Main Office to transfer Guy la Chambre and Jacomet to the Reich ...." (Ibid p.83).

After receiving STEENGRACHT's conference report expressing the idea that it made no difference whether the reprisal hostages were taken from German concentration camps or from France proper, if only they were executed by French authorities. Ribbentrop proved to be so responsive to STEENGRACHT's proposal that he proposed it to Hitler who agreed

" ... to have the French Government shoot the former French ministers Leon Blum, Georges Mandel and Paul Reynaud after the next execution of a veteran of the Tunisian campaign. However, the Fuehrer said, care should be taken that the French Government should not set them at liberty after they have been arrested." ( Exh. 1483, NG- 3066, Doc. Book 50, p.85).

Mandel, who was a prisoner in a German concentration camp and could not have had the remotest connection with the execution of Tunis-fighters in North Africa was subsequently murdered. ( Tr. 10778). We submit that STEENGRACHT is an accessory in this and other reprisal murders.



## B. DENMARK

In order to give a comprehensible narrative of the crimes in Denmark with which STEENGRACHT is connected, it is necessary to devote a little space to what took place there before he actually began to take a hand in shaping events.

In November, 1942, Werner Best was appointed Reich Plenipotentiary in Denmark. He succeeded Minister Rönthe-Fink who had had the title of Plenipotentiary to the Danish Government since the German occupation began. The change in titles was not accidental. Up until the time that Best was appointed, although there had been some infringements made upon the sovereignty of the Danish Nation, a Government did, in fact, exist, and to some extent formulated its own policy, relatively free from German interference. There was even a Danish Army in existence. Hitler became dissatisfied with this state of affairs and decided that a "strong man" representing the German Government was needed in Denmark; and, as a corollary, that the independence of the Danish Government should be severely curtailed. This was discussed between Hitler and Ribbentrop. Ribbentrop suggested Best as the man qualified to bring about the changes which Hitler wanted.

In fact, Until June of 1942, Best had been a high Gestapo official. / he had been one of the organizers of the Gestapo. He remained in the RSHA until 1940, when he was transferred to the Military Administration of occupied France. He had had no experience whatever in diplomacy or in foreign affairs. Ribbentrop arranged for him to be transferred to the Foreign Office in June, 1942. (Tr. 26791-2) The purpose of this was simply to allow Best the opportunity of familiarizing himself to some extent with the Foreign Office, its protocol, procedure, and organizational peculiarities. Though Best was not originally selected specifically for the position in Denmark, some knowledge of Foreign Office procedure was necessary for the position of Reich Plenipotentiary



for Denmark, because that official was subordinate to the Foreign Office and made his reports to and received his instructions from the Wilhelmstrasse. Von Stutterheim of the Reich Chancellery explained Best's position as follows:

"He was practically therefore a kind of Reich Commissar in Denmark, even if, contrary to the Reich Commissars in Norway and the Netherlands, he possessed no right of authority over the Danish agencies. He was further distinguished from the Reich Commissars in Norway and the Netherlands by the fact that he was not directly subordinate to the Fuehrer, but was responsible to the Foreign Office." (Ex. 513, NG-3193, Book 36, pp. 45-46)

On November 4, 1942, his brief apprenticeship at the Foreign Office having been completed, Best went to Copenhagen. (Steengracht Ex. 23, STEENGRACHT Bk. III, p. 16) Within a week he was well on his way toward making the changes which Hitler and Ribbentrop had indicated. The Danish Cabinet had radically changed - so radically, in fact, that Best was able to report with satisfaction that about one-half of the Danish Cabinet Ministers were pro-German, and that the others were amenable to control, either because of bad conscience or because of a fear that they would lose their jobs. (Ex. C-79, NG-5827, Book 209, p. 12)

Apparently, however, the change in the cabinet personnel did not completely pacify the country. By April, Best was sending requests to the Foreign Office for additional German Police in Denmark. (Ex. 1496, NG-4562, Book 52) In May, the defendant STEENGRACHT became a State Secretary, and as such had the function of acting as intermediary between Best and the RSHA. As a result of the efforts of Inland II, a department of the Foreign Office subordinated to STEENGRACHT, Best received 45 Gestapo officials in addition to a battalion of police troops. (Ex. 1496, NG-4562, Book 52; Tr. 26812)

At the time that STEENGRACHT obtained these police forces for Best, he had every reason for knowing the probable purposes for which they would be used. The functions of the Gestapo were no secret to him. In fact, STEENGRACHT testified that he received information about the



mistreatment of concentration camp inmates from two different sources: from foreign press notices as well as from foreign diplomats, and also from Germans who had been victims of the system. (Tr. 9872/3) By dispatching these uniformed SS butchers into Denmark, we submit that Steengracht made himself a party to what happened after they got there. On August 29, 1943, STEENGRACHT received a message from Best saying that his own police, with the help of the troops, "arrested a sizable number of persons" who were described as:

"potential supporters of resistance tendencies, (without having actually engaged in such activities, otherwise they would have been arrested earlier. The arrest of anti-German persons for the purpose of intimidation, continues." (Ex. 3622, NG-5184, Book 98-A, p. 56)

On September 1, STEENGRACHT opened another sealed message from Best, which read:

"Today, I took over the former Danish camp for Communists in Horseroed, in order to utilize it as a concentration camp. The Wehrmacht guard will be replaced by a guard from my police battalion." (Ex. 3626, NG-5103, Book 98-A, p. 68)

To all this, STEENGRACHT had no comment. His attitude was characterized by Best in this way:

"Q After all, as you have stated, your relationship with Mr. Steengracht was extremely cordial, so I believe there was hardly any friction between you during the whole time you spent in Denmark?

"A No, I never had any reason to object to any of his actions with the Minister ..." (Tr. 26819-20)

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"Q In other words, whenever you came to Berlin to see Steengracht, you found out, or you noticed, that he was well informed about what you were doing up here?

A In general, he knew about my activity, but sometimes in a few cases, it happened that he told me that he did not know yet about this or that.

Q Of course, no secrets could exist between two good friends like you and Steengracht?

A I do not remember anything that I would have kept a secret as far as he was concerned." (Tr. 26823 - 26824)



This harmony of spirit which existed between Best and STEENGRACHT continues to be exhibited throughout the evidence. STEENGRACHT himself testified to this effect (Tr. 10149, 51). Not once did STEENGRACHT take issue with any of the outrageous policies and measures which Best reported to him as fast as they were conceived.

The oft-mentioned incident at Odense concerning the alleged "mis-treatment" of a German officer took place on 25 August 1943. (Ex. 3619, NG-5106, Book 98-A, p. 45). As a result of this occurrence huge collective fines were imposed upon the inhabitants of the town where the event took place, a military state of emergency was proclaimed throughout the entire country, the Danish Government was forced to resign, and the Danish Armed Forces were dissolved and arrested. (Ex. 3619, NG-5106, Book 98-A page 45; Ex. 3622, NG-5184, Book 98-A page 54; Ex. 3623, NG-5185, Book 98-A page 58).

During the military state of emergency, Best made two new suggestions. The first was the establishment of a new order in Denmark (Ex. 3624 NG-5102 Doc. Book 98-A, p. 61) which would abolish all vestiges of Danish sovereignty, and the second was the deportation of all Danish Jews. (Ex. 1669, Book 60-B, page 14).

The telegram in which the proposal to deport Jews was contained came into the Foreign Office on September 8th and was passed on by Steengracht to Ribbentrop without comment. (Ex. 1669, supra) Also as a result of the Odense incident, Best renewed his demands for an increase in the German police personnel in Denmark. (Ex. 3628, NG-3974, Book 98-A, p. 73). We have already mentioned that it was STEENGRACHT who conferred with Kaltenbrunner concerning the choice of a Higher-SS and Police Leader for Denmark, which the transfer of so many SD personnel required, and that it was as a result of further conferences between Steengracht and the RSHA chief, that the relationship of the Higher-SS and Police Leader to Best was definitely established. (Ex. 3614, NG-5036, Bk. 98-A, p. 8; Ex. 3630, NG-5455, Bk. 98-A, p. 80) Thereafter, Best informed STEENGRACHT (sealed matter telegram) that Pancke's cooperation with him was



excellent. (Ex. C-82, NG-5811, Book 209, p. 163).

At the same time that these Kaltenbrunner-Steengracht conferences were taking place, the first acts of what later came to be known as the counter-terror program took place. Mildner, the Chief of the SIPO and SD for Denmark, reported, under the code phrase "German interests not involved" through Best and the Foreign Office channels to the RSHA that his men had taken ruthless action as a reprisal against the dynamiting of German installations by unknown persons - (presumably) members of the resistance movement group. (Ex. 423, NG-5818, Book 205, p. 29). The code was a common expression used by the Gestapo for German terror acts. (Ex. 3632, NG-5449, Book 98-A, p. 105.)

The most significant conference concerning the counter-terror  
1943  
program was held on December 30th, at the Fuehrer's Headquarters. Hitler, Himmler, Kaltenbrunner, Best, Hannecken and Pancke were present. (Ex. 433, NG-5887, Book 205. Ribbentrop was absent because of illness. Hannecken was Military Commander in Denmark and Pancke was the newly-appointed SS and Police Leader for Denmark. At the conclusion of the conference, which chiefly concerned sabotage acts in Denmark, Hitler ordered that the SD should embark on a systematic counter-terror program. (Ibid., P. 41 of translation.)

A few words should be said about the meaning of this phrase, "counter-terror." The theory of it was very simple. It was a pure reprisal measure in which the element of doubt and uncertainty was to increase the deterrent effect caused by the deaths of the victims or by the destruction of property. For example, a German soldier would be shot by some unknown person on Monday night. On Tuesday night, some Danish citizen, who had been classified by the SD as "unsympathetic" toward the Germans in his attitude, would be set upon and murdered as he walked home. No announcement was made as to who had killed him, or why he was killed. If possible, Bovensiepen stated, he tried to arrange for a killing in the same locality. (Ex. C-433 supra., Page 53 of translation.) To all intents and purposes the event had the superficial appearance of a simple murderous assault.



If the Danish police succeeded in tracing the murderer, as sometimes was the case, as the witness Larsen testified, the German police immediately took him into their own custody, giving as their excuse that he was a deserter from the Wehrmacht, or some other such reason. (Tr. 6781) The theory was that the uncertainty and insecurity which this kind of program of organized murder would have on the minds of the Danish population, would add to the efficacy of the killings to discourage other Danes from committing similar acts.

What has just been said about the nature of "counter-terror", as this term was understood by the Foreign Office, the Army and the police agencies, is not exaggerated or distorted in the least. At the conference of December 30, Hitler particularly emphasized the "camouflage" aspects of the program, - that is to say, - the deliberate failure to announce either beforehand or afterwards, that the victims had been killed by German police who were acting under orders, or to give any intimation as to why they had been killed. Hitler said that this was a better way to get at the supporters (of the resistance movement). The shooting of hostages was still forbidden because it had proved to be without effect (Exh. C-433, , NG-5887, Book 205, page 41 of translation). As a matter of fact, the counter-terror and sabotage program was a variation on the Night and Fog Program, the chief difference being that in the case of the Night and Fog victims, their families did not know whether they were dead or alive, whereas in the case of the terror and sabotage victims, all that friends or relatives knew was that they were found lying dead in the street. The effect sought in both cases was the same.

After Best returned from this conference, he had a conversation with STEENGRACHT. (Tr. 10519). What was said there we do not know precisely, but it is not too far-fetched to assume that Best mentioned to STEENGRACHT what had been said at the conference at the Fuch-



rer's headquarters. At any rate, it is undisputed that Best informed STEINGELMACHT about the intention to initiate the counter-terror program on a large scale before the order was actually put into effect and that STEINGELMACHT did not raise any objections.

(Tr. 10519-10520). Both Best and STEINGELMACHT repeatedly say that from the very outset they had the intention to minimize the effect of Hitler's order as much as possible, and to conceal from him, that this was being done.

1944

Around the beginning of January, the organized "counter-terror" began. A special SD counter-terror Commando of the Storzony Battalion was sent to Denmark for this purpose. This unit was known as the "Peter-Group", and its sole mission from the outset was to establish a reign of terror throughout Denmark, by means of murdering citizens, blowing up buildings and the like. (Exh. 3259, NG-5089, Book 52, (Exh. 3632, NG-5449, Book 98-A, page 101-105, Exh. C-433 supra, Pg. 41-43 of translation) The leader of this group was Schwerdt. He worked on the direct order of Bovensiepen the newly arrived Chief of the SIPO and SD who had replaced Hildner. (Exh. 3633, NG-5449 Book 98<sup>-A</sup>, page 108).

Best was kept completely informed about the activities of this group by Bovensiepen who reported to him continually (Exh. 3632 supra p. 102). Before Bovensiepen went to Denmark he had been explicitly instructed by Kaltenbrunner that he was to keep in close contact with Best concerning the counter-terror program and that in fact, he should submit to Best, lists of prospective victims before they were actually killed so that Best could have the opportunity to disapprove of any names contained therein.

Exceeding this, Best picked victims and objects for counter-terror on his own initiative and had Bovensiepen order them to be carried out. (Exh. 3632, NG-5449, Book 98<sup>-A</sup>, page 103-105) Periodically, in fact, almost daily, Best reported on the progress of the counter-terror acts to the Foreign Office. He referred to



counter-terror victims and objects as "Anti-German". (Exh. 3631, NG-5176, Book 98-A, p. 84-99). STEENGRACHT read and distributed all these reports (sealed matter telegrams) and a system was devised whereby the reader could ascertain not only that the person shot was a victim of the SD but also the particular act in retaliation for which any particular victim had been killed. Thus the telegram which STEENGRACHT received on Wednesday reporting the death of the Dane "K", would refer back to an earlier telegram received on Monday which reported the killing of the German "Y".

A specific example is the telegram by Best to the Foreign Office dated 31 January 1944, which was distributed by STEENGRACHT to the various departments. (Exh. 3631 supra p. 89).

"In Copenhagen, a naval lieutenant was shot at in the street by unknown persons. For this assault I imposed a fine of 2 million Kronen. In addition counter-measures will be taken along the lines of the well-known instructions."

Two days later Best reported results to the Foreign Office. This telegram was also distributed by STEENGRACHT. (Ibid p.91).

"Also in Copenhagen, the anti-German Captain in the Body-Guards, Count Kielebrokenhuus-Schack was shot, at receiving dangerous injuries, and a Danish Police officer was shot. (In this connection reference is made to my daily report No. 118, of 31 January 1944, last sentence!)"

STEENGRACHT was in a position, therefore, to follow the course of this scheme almost blow-by-blow. Even his subordinates testified that they knew about it. Grunherr admitted that "Best continually kept the Foreign Office informed of all acts of counter-terror carried out", (Tr. 18119) and that from a telegram which STEENGRACHT had distributed to him:

"I knew that counter-terror measures were carried out, and secondly, that it was carried out by sabotage groups, be they agents or the Schalburg Corps or the police; and that according to this one telegram, Best seemed to decide upon a certain extent of these counter-terror measures." (Tr. 18123)

He also said that he discussed counter-terror with his superior, Hencke, chief of the political division (Tr. 18120). Hencke in his



turn testified that the question of counter-terror was politically important:

"Q. Now, the question of counter-terror was an important question politically, as well as otherwise, with regard to Foreign Office activities in Denmark, isn't that correct?

"A. Undoubtedly, for the Foreign Office it was of particular interest. (Tr. 19476

Hencke also recalled having had a conversation with Best in April, 1944, on the counter-terror question (Exh. 3631, NG-5176, Doc. Sk.

-A  
98, page 99; Tr. 19473). It is hard to understand therefore, he meant STEENGRACHT what/when he testified that he was not told by Best about the "details" of the counter-terror program. It may be that he was not precisely informed as to whether "X" had been shot between the eyes or through the left temple, nor whether his body was left lying on the street or thrown into a canal, but he was certainly told, incident by incident, about the various individuals who were killed, and the whole subject of counter-terror in Denmark seems to have been generally discussed by his subordinates.

Actually, STEENGRACHT's testimony is contradictory on this point. On the one hand he said that he was not told about the "details" (Tr. p. 10151) and on the other hand he states that he, his other "conspirators" Hencke, Grunherr and Best worked hand-in-glove to try to defeat or at least to impede as much as possible, the purposes which Hitler had in mind for the counter-terror program. (Tr. p. 10574-76). The testimony is undisputed that the relationship between STEENGRACHT and BEST remained good from the time that the former was elevated to the dignity of a State Secretaryship until the end of the war. Both men repeatedly referred to the "cordial and close relationship" which existed between them, and to the high esteem in which each regarded the other. In view of this relationship, and in view of the constant official correspondence which was passing between them, it seems rather fantastic to believe that STEENGRACHT was not kept thoroughly informed of developments in Denmark.



On the contrary, STEENGRACHT also received statistical reports concerning counter-terror from BEST such as BOVENSIEPEN's monthly reports on the activities of the SIPO and SD in Denmark (Exh. C-429, NG- 3019, Book 205 p.44) in which the counter-terror acts were listed. On 6 July 1944 BEST gave STEENGRACHT and the Foreign Office an estimate of counter-terror acts during the first half of 1944. He boastfully stated then

" I repeat my verbal report that during the first half year of 1944, 24 counter-terror operations took place against persons and that 32 counter-sabotage measures (demolition of plants, hostile to Germany, newspapers, etc.) were carried out." (Exh. 1498 NG-4007 Book 52, p.7 of translation.)

There cannot be the slightest doubt that the German counter-terror was an utterly criminal scheme.

The remarks made by Tribunal V in the case of the United States v. Wilhelm Loeb, et al, concerning the legality of hostage executions have already been quoted. If it is illegal as both that Court as well as Tribunal V in the case of United States v. Wilhelm List et al, held, to shoot hostages without first making elaborated announcements and warnings which are specified in the latter opinion, it can scarcely be contended that the kind of conduct engaged in by the murderer acting under the command of Schwerdt and his successor, Issel, can be condoned a more outrageous



and unwarrantable breach of all civilized behavior can hardly be imagined. As the Danish Court in discussing the "counter-terror" program, in surprisingly moderate language has said:

"According to the Hitler order of 30 December 1943, counter-sabotage, as mentioned before, was to take place under cover; that is, the German authorities were not to appear as the responsible agencies. That was also the way it was finally carried out. Apart from the already mentioned official blastings, nothing was published about the acts of the special commandos, who had been sent from Germany. Their acts were always preceded by Danish acts, and they acted in so arbitrary a manner that in many cases it was difficult to know against whom they were directed. Under these circumstances, it can be understood that the minimum conditions which might legalize the reprisal acts were not adhered to, i.e. that the opponent is informed that this is a reprisal action or such becomes clearly evident from the action itself; furthermore, it is to be shown against which action or actions of the opponent the reprisal action is directed. In the course of the frequently mentioned Hitler conference of 30 December, 1943, in which the defendants Best, von Hannecken and Pancke took part, it was ordered that reprisal measures which had been in use so far, such as shooting hostages, were to be given up. In view of that, and in view of the extraordinary nature of camouflaged counter-sabotage, the Tribunal does not hesitate to find that the defendants must have realised that that form of counter-sabotage was illegal...."

(Danish City Court of Copenhagen v. Best, Hannecken, Pancke and Bovensiepen. Exhibit No. C- 433, NG-5887, Book 205, page 63-64 of translation.)



STEENGRACHT himself was a trained lawyer. He knew perfectly well that this entire scheme violated every principle of civilized law. The first time he heard of it, he occupied a position which required him to give his advice on the legality and advisability of such matters to von Ribbentrop. We know that on various occasions he did manage to change von Ribbentrop's mind. At the same time he occupied a position where he frequently acted as Best's superior. For example, as will presently be shown, before the 26-27th of July, 1944, he summoned Best to Berlin to call him to account for the unpleasant turn which events had taken in Denmark. On a previous occasion he instructed Best not to allow any executions of persons convicted before SS courts until the sentences had been approved by the Foreign Office. (Exh. 3634, NG- 5181, Document-Book 98 A, p. 112).

We submit that STEENGRACHT owed the clear duty to protest against this vicious plan and if his protests were unavailing, to refuse to remain in a position where he knew that his subordinates were systematically engaged in a campaign of murder. But STEENGRACHT never made any such protests. He testified how from time to time, because of the especially close relationship which existed between himself and Ribbentrop, he was able to



bring his chief to change his opinion, but so far as any credible evidence shows; he never uttered a syllable of protest to Ribbentrop about this entire counter-terror program.

We further submit that by remaining in office after he had been thoroughly apprised of the exact turn which events were taking in Denmark, he became an accessory to the execution of the counter-terror scheme. But STEENGRACHT's participation in the scheme did not end with his failure to protest against it, and with his knowledge of what was happening.

In July, 1944, a series of complicated events took place which resulted in a general strike at Copenhagen. Ribbentrop became very much alarmed about this, and told STEENGRACHT to summon Best to Berlin and to find out whether the events in Copenhagen, were the result of bad judgement or of poorly conceived policy on Best's part. According to Best, STEENGRACHT tried to protect and excuse him in this matter. Best went to Berlin and had a conference with STEENGRACHT, but the report which the latter made as the result of the conference, completely exculpated Best. (Tr. 10 149). Among other things, Best had suggested that the infamous "Night and Fog Program" which was in full swing in Belgium, France, Holland and Norway, also be made applicable to Denmark. A second suggested panacea was that a series of "ruthless reprisal murders and reprisal sabotage acts," be instituted in Denmark. (Ex. 1500, NG-4880, DB. 52, p. 21). This, of course, only amounted to an intensification of the counter-terror program, which was already in force there. STEENGRACHT passed along both of these suggestions to Ribbentrop in his report, with the comment that he, STEENGRACHT, had considered both of these suggestions to be "useful". (Ex. 1500, NG 4880, DB. 52, p. 27). Here we have an expression by STEENGRACHT which amounted not only to an approval of all of the murders which had been previously



carried out in Denmark, but to a recommendation that the murder program be extended and accelerated.

The making of such a recommendation would be sufficiently shocking, even if the person who made it believed that it was justified. But the evidence here seems to indicate that STEENGRACHT was not particularly interested in what the actual facts in Denmark were, and that his only aim, interest, or object in this whole affair was to save Best's skin. If a few score Danes had to be shot in order to accomplish this all-important end, that was apparently regarded as of no particular consequence. STEENGRACHT almost said as much, when, in the course of describing the preparation of his report to Ribbentrop on the results of the "investigation" of Best, he testified:

"I requested Best to prepare a document of justification and to submit it to me. I told him that I would state his attitude to be correct and I, on my part, would add a few special items, or would underscore a few special items." (Tr. 10151).

The last two documents alluded to constitute, respectively, the justification which Best prepared for himself and the "special items" added by STEENGRACHT. It is interesting to note that in this report, STEENGRACHT remarked that he had instructed Best to keep in mind that "all softness and mercy was out of place". (Ex. 1500, supra). The advice seems to have been taken literally, because an examination of the statistics reveals that the majority of the butcheries committed by members of the "Peter" group took place after STEENGRACHT had his meeting with Best. (Ex. 3259, NG-5089, DB. 52, p.     ). The meeting between Best and STEENGRACHT was almost immediately followed by one of the most brutal murders in the entire list: the killing of Snog Christensen, who was kidnapped and shot before his body was flung into a moore. (Ex. 3633, NG-5419, DB. 98-A, p. 110)



STEENGRACHT had also self-righteously said that the severe measures which he recommended were "also in the best interests of the Danes". He repeated this on the witness-stand (Tr. 10149). Obviously, the Danes simply did not know what was good for them. But it is rather difficult, even for those of us who have had the benefit of listening to STEENGRACHT and his witnesses, to understand how the interests of the Danish people were served by the systematic murders of many of them during this counter-terror program; or how even the German interests were served by the continuation of the program even after the Allied armies had entered the Reich and Germany's defeat was a foregone conclusion. (Tr. 10576, 18120). Perhaps it is merely that we are deficient in imagination.



#### IV CONCLUSION

We have reviewed in some detail the register of crimes committed in German-occupied France and Denmark by men who were ultimately acting under orders of the Foreign Office. We have shown that these crimes were systematically and thoroughly reported to Berlin, and that STEENGRACHT had every opportunity, and in fact every reason, to know definitely and precisely what was taking place. We have seen that STEENGRACHT, by virtue of his position in the Foreign Office as permanent deputy to Ribbentrop, was in a position of authority and influence. But we have sought in vain for one sentence which STEENGRACHT ever uttered against the brutal measures which his subordinates conceived and carried out. On the contrary, the evidence was that he was in complete sympathy with Abetz and Best. "I pointed out that it was not important where the people came from, but who executed them." This was his response to the objection that the mass executions of Frenchmen suggested by Abetz would have no effect in France because the intended victims were all in Germany. "I consider that these suggestions are useful." That was his reaction to Best's proposal to use "reprisal murders" as one way of pacifying the Danes. These two sentences summarize STEENGRACHT's contribution to the application of the Nazi "New Order" in German-occupied Europe and to the policy of the German Foreign Office. In other trial briefs we have revealed STEENGRACHT's participation in the murder of millions of Jews all over Europe (Count V) and his participation with killing of Allied prisoners of War (Count III).

Thus we see that STEENGRACHT, during his two years as State Secretary (May 1943 - May 1945) participated knowingly in the development and promotion of the various murder schemes of his government.



CORRECTIONS TO PROSECUTION FINAL  
BRIEF ON KEHRL

Page 7; Line 2:	Delete "only", replace with "was"
Page 7; Line 21:	The correct citation is Exh. <u>C-175</u> , NID 12974, DB <u>168</u> , E 1
Page 7; Line 24:	Change "30 September 1938" to "30 September <u>1939</u> "
Page 19; Line 10:	Correct to "would otherwise be jeopardized"
Page 19; Second line from bottom:	Correct date should be "23 January <u>1940</u> ", not "1948"
Page 25; Line 34:	Change "officer" to "office"
Page 125:	This page should <u>follow</u> Page 126.
Page 151:	This page should <u>follow</u> Page 152.