

# Judgment Of The International Military Tribunal Against Major Nazi War Criminals And Criminal Organizations

IN THE MATTER OF  
THE UNITED STATES OF AMERICA  
THE FRENCH REPUBLIC  
THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND  
THE UNION OF SOVIET SOCIALIST  
REPUBLICS  
AGAINST  
HERMAN WILHELM GOERING, ET  
AL, *Defendants.*

## Judgment

On the 8th August 1945, the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the United States of America, the Provisional Government of the French Republic, and the Government of the Union of Soviet Socialist Republics entered into an agreement establishing this Tribunal for the trial of War Criminals whose offenses have no particular geographical location. In accordance with Article 5, the following Governments of the United Nations have expressed their adherence to the Agreement:

Greece, Denmark, Yugoslavia, the Netherlands, Czechoslovakia, Poland, Belgium, Ethiopia, Australia, Honduras, Norway, Panama, Luxembourg, Haiti, New Zealand, India, Venezuela, Uruguay, and and Paraguay.

By the Charter annexed to the Agreement, the constitution, jurisdiction and functions of the Tribunal were defined.

The Tribunal was invested with power to try and punish persons who had committed crimes against peace, war crimes and crimes against humanity as defined in the Charter.

The Charter also provided that at the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization.

In Berlin, on the 18th October 1945, in accordance with Article 14 of the Charter, an indictment was lodged against the defendants named in the caption above, who had been designated by the Committee of the Chief Prosecutors of the signatory Powers as major war criminals.

A copy of the indictment in the German language was served upon each defendant in custody at least thirty days before the Trial opened.

This indictment charges the defendants with crimes against peace by the planning, preparation, initiation and waging of wars of aggression, which were also wars in

violation of international treaties, agreements and assurances; with war crimes; and with crimes against humanity. The defendants are also charged with participating in the formulation or execution of a common plan or conspiracy to commit all these crimes. The Tribunal was further asked by the Prosecution to declare all the named groups or organizations to be criminal within the meaning of the Charter.

The defendant Robert Ley committed suicide in prison on the 25th October 1945. On the 15th November 1945 the Tribunal decided that the defendant Gustav Krupp von Bohlen und Halbach could not then be tried because of his physical and mental condition, but that the charges against him in the indictment should be retained for trial thereafter, if the physical and mental condition of the defendant should permit. On the 17th November 1945 the Tribunal decided to try the defendant Bormann in his absence under the provisions of Article 12 of the Charter. After argument, and consideration of full medical reports, and a statement from the defendant himself, the Tribunal decided on the 1st December 1945 that no grounds existed for a postponement of the trial against the defendant Hess because of his mental condition. A similar decision was made in the case of the defendant Streicher.

In accordance with Articles 16 and 23 of the Charter, Counsel were either chosen by the defendants in custody themselves, or at

their request were appointed by the Tribunal. In his absence the Tribunal appointed Counsel for the defendant Bormann, and also assigned Counsel to represent the named groups or organizations.

The Trial which was conducted in four languages—English, Russian, French and German—began on the 20th November 1945, and pleas of "Not Guilty" were made by all the defendants except Bormann.

The hearing of evidence and the speeches of Counsel concluded on 31st August 1946.

403 open sessions of the Tribunal have been held. 33 witnesses gave evidence orally for the Prosecution against the individual defendants, and 61 witnesses, in addition to 19 of the defendants, gave evidence for the Defense.

A further 143 witnesses gave evidence for the Defense by means of written answers to interrogatories.

The Tribunal appointed Commissioners to hear evidence relating to the organizations, and 101 witnesses were heard for the Defense before the Commissioners, and 1,809 affidavits from other witnesses were submitted. Six reports were also submitted, summarizing the contents of a great number of further affidavits.

38,000 affidavits, signed by 155,000 people, were submitted on behalf of the Political Leaders, 136,213 on behalf of the SS, 10,000 on behalf of the SA, 7,000 on behalf of the SD, 3,000 on behalf of

the General Staff and OKW, and 2,000 on behalf of the Gestapo.

The Tribunal itself heard 22 witnesses for the organizations. The documents tendered in evidence for the prosecution of the individual defendants and the organizations numbered several thousands. A complete stenographic record of everything said in court has been made, as well as an electrical recording of all the proceedings.

Copies of all the documents put in evidence by the Prosecution have been supplied to the Defense in the German language. The applications made by the defendants for the production of witnesses and documents raised serious problems in some instances, on account of the unsettled state of the country. It was also necessary to limit the number of witnesses to be called, in order to have an expeditious hearing, in accordance with Article 18 (c) of the Charter. The Tribunal, after examination, granted all those applications which in their opinion were relevant to the defense of any defendant or named group or organization, and were not cumulative. Facilities were provided for obtaining those witnesses and documents granted through the office of the General Secretary established by the Tribunal.

Much of the evidence presented to the Tribunal on behalf of the Prosecution was documentary evidence, captured by the Allied armies in German army headquarters, Government buildings, and

elsewhere. Some of the documents were found in salt mines, buried in the ground, hidden behind false walls and in other places thought to be secure from discovery. The case, therefore, against the defendants rests in a large measure on documents of their own making, the authenticity of which has not been challenged except in one or two cases.

### The Charter Provisions

The individual defendants are indicted under Article 6 of the Charter which is as follows:

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

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

“(a) Crimes Against Peace: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing:

“(b) War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity:

“(c) Crimes Against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

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

These provisions are binding upon the Tribunal as the law to be applied to the case. The Tribunal will later discuss them in more detail; but, before doing so, it is nec-

essary to review the facts. For the purpose of showing the background of the aggressive war and war crimes charged in the indictment, the Tribunal will begin by reviewing some of the events that followed the first world war, and in particular, by tracing the growth of the Nazi Party under Hitler's leadership to a position of supreme destiny of the whole German peo-  
power from which it controlled the ple, and paved the way for the alleged commission of all the crimes charged against the defendants.

## The Nazi Regime in Germany

### THE ORIGIN AND AIMS OF THE NAZI PARTY

On 5th January 1919, not two months after the conclusion of the Armistice which ended the first World War, and six months before the signing of the Peace Treaties at Versailles, there came into being in Germany a small political party called the German Labor Party. On the 12th September 1919 Adolf Hitler became a member of this party, and at the first public meeting held in Munich, on 24th February 1920, he announced the party's program. That program, which remained unaltered until the party was dissolved in 1945, consisted of twenty-five points, of which the following five are of particular interest on account of the light they throw on the matters with which the Tribunal is concerned:

“Point 1. We demand the unification of all Germans in the

Greater Germany, on the basis of the right of self-determination of peoples.

"Point 2. We demand equality of rights for the German people in respect to the other nations; abrogation of the peace treaties of Versailles and Saint Germain.

"Point 3. We demand land and territory for the sustenance of our people, and the colonization of our surplus population.

"Point 4. Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently, no Jew can be a member of the race. . . .

"Point 22. We demand abolition of the mercenary troops and formation of a national army."

Of these aims, the one which seems to have been regarded as the most important, and which figured in almost every public speech, was the removal of the "disgrace" of the Armistice, and the restrictions of the peace treaties of Versailles and Saint Germain. In a typical speech at Munich on the 13th April 1923, for example, Hitler said with regard to the Treaty of Versailles:

"The treaty was made in order to bring twenty million Germans to their deaths, and to ruin the German nation. . . . At its foundation our movement formulated three demand.

"1. Setting aside of the Peace Treaty.

"2. Unification of all Germans.

"3. Land and soil to feed our nation."

The demand for the unification of all Germans in the Greater Germany was to play a large part in the events preceding the seizure of Austria and Czechoslovakia; the abrogation of the Treaty of Versailles was to become a decisive motive in attempting to justify the policy of the German Government; the demand for land was to be the justification for the acquisition of "living space" at the expense of other nations; the expulsion of the Jews from membership of the race of German blood was to lead to the atrocities against the Jewish people; and the demand for a national army was to result in measures of rearmament on the largest possible scale, and ultimately to war.

On the 29th July 1921, the Party which had changed its name to National Sozialistische Deutsche Arbeiter Partei (NSDAP) was reorganized, Hitler becoming the first "Chairman." It was in this year that the Sturmabteilung or SA was founded, with Hitler at its head, as a private para-military force, which allegedly was to be used for the purpose of protecting NSDAP leaders from attack by rival political parties, and preserving order at NSDAP meetings, but in reality was used for fighting political opponents on the streets. In March 1923 the defendant Goering was appointed head of the SA.

The procedure within the Party was governed in the most absolute way by the "leadership principle" (Fuehrerprinzip).

According to the principle, each

Fuehrer has the right to govern, administer or decree, subject to no control of any kind and at his complete discretion, subject only to the orders he received from above.

This principle applied in the first instance to Hitler himself as the Leader of the Party, and in a lesser degree to all other party officials. All members of the Party swore an oath of "eternal allegiance" to the Leader.

There were only two ways in which Germany could achieve the three main aims above-mentioned, by negotiation, or by force. The twenty-five points of the NSDAP program do not specifically mention the methods on which the leaders of the party proposed to rely, but the history of the Nazi regime shows that Hitler and his followers were only prepared to negotiate on the terms that their demands were conceded, and that force would be used if they were not.

On the night of the 8th November 1923, an abortive putsch took place in Munich. Hitler and some of his followers burst into a meeting in the Bürgerbrau Cellar, which was being addressed by the Bavarian Prime Minister Kehr, with the intention of obtaining from him a decision to March forthwith on Berlin. On the morning of the 9th November, however, no Bavarian support was forthcoming, and Hitler's demonstration was met by the armed forces of the Reichswehr and the Police. Only a few volleys were fired; and after a dozen of his followers had been killed, Hitler fled for his life, and the demon-

stration was over. The defendants Streicher, Frick and Hess all took part in the attempted rising. Hitler was later tried for high treason, and was convicted and sentenced to imprisonment. The SA was outlawed. Hitler was released from prison in 1924 and in 1925 the Schutzstaffel, or SS, was created, nominally to act as his personal bodyguard, but in reality to terrorize political opponents. This was also the year of the publication of "Mein Kampf," containing the political views and aims of Hitler, which came to be regarded as the authentic source of Nazi doctrine.

#### THE SEIZURE OF POWER

In the eight years that followed the publication of "Mein Kampf," the NSDAP greatly extended its activities throughout Germany, paying particular attention to the training of youth in the ideas of National Socialism. The first Nazi youth organization had come into existence in 1922, but it was in 1925 that the Hitler Jugend was officially recognized by the NSDAP. In 1931 Baldur von Schirach, who had joined the NSDAP in 1925, became Reich Youth Leader of the NSDAP.

The Party exerted every effort to win political support from the German people. Elections were contested both for the Reichstag and the Landtage. The NSDAP leaders did not make any serious attempt to hide the fact that their only purpose in entering German political life was in order to destroy

the democratic structure of the Weimar Republic, and to substitute for it a National Socialist totalitarian regime which would enable them to carry out their avowed policies without opposition. In preparation for the day when he would obtain power in Germany, Hitler in January 1929 appointed Heinrich Himmler as Reichsfuehrer SS with the special task of building the SS into a strong but *elite* group which would be dependable in all circumstances.

On the 30th January 1933 Hitler succeeded in being appointed Chancellor of the Reich by President von Hindenburg. The defendants Goering, Schacht and von Papen were active in enlisting support to bring this about. Von Papen had been appointed Reich Chancellor on the 1st June 1932. On the 14th June he rescinded the decree of the Bruening Cabinet of the 13th April 1932, which had dissolved the Nazi para-military organizations, including the SA and the SS. This was done by agreement between Hitler and von Papen, although von Papen denies that it was agreed as early as the 28th May, as Dr. Hans Volz asserts in "Dates from the History of the NSDAP"; but that it was the result of an agreement was admitted in evidence by von Papen.

The Reichstag elections of the 31st July 1932 resulted in a great accession of strength to the NSDAP, and von Papen offered Hitler the post of Vice Chancellor, which he refused, insisting upon the Chancellorship itself. In No-

vember 1932 a petition signed by leading industrialists and financiers was presented to President Hindenburg, calling upon him to entrust the Chancellorship to Hitler; and in the collection of signatures to the petition Schacht took a prominent part.

The election of the 6th November, which followed the defeat of the Government, reduced the number of NSDAP members, but von Papen made further efforts to gain Hitler's participation, without success. On the 12th November Schacht wrote to Hitler:

"I have no doubt that the present development of things can only lead to your becoming Chancellor. It seems as if our attempt to collect a number of signatures from business circles for this purpose was not altogether in vain. "

After Hitler's refusal of the 16th November, von Papen resigned, and was succeeded by General von Schleicher; but von Papen still continued his activities. He met Hitler at the house of the Cologne banker von Schroeder on the 4th January 1933, and attended a meeting at the defendant Ribbentrop's house on the 22nd January, with the defendant Goering and others. He also had an interview with President Hindenburg on the 9th January, and from the 22nd January onwards he discussed officially with Hindenburg the formation of a Hitler Cabinet.

Hitler held his first Cabinet meeting on the day of his appointment as Chancellor, at which the

defendants Goering, Frick, Funk, von Neurath and von Papen were present in their official capacities. On the 28th February 1933 the Reichstag building in Berlin was set on fire. This fire was used by Hitler and his Cabinet as a pretext for passing on the same day a decree suspending the constitutional guarantees of freedom. The decree was signed by President Hindenburg and countersigned by Hitler and the defendant Frick, who then occupied the post of Reich Minister of the Interior. On the 5th March elections were held, in which the NSDAP obtained 288 seats of the total of 647. The Hitler Cabinet was anxious to pass an "Enabling Act" that would give them full legislative powers, including the power to deviate from the Constitution. They were without the necessary majority in the Reichstag to be able to do this constitutionally. They therefore made use of the decree suspending the guarantees of freedom and took in-to so-called "protective custody" a large number of Communist deputies and party officials. Having done this, Hitler introduced the "Enabling Act" into the Reichstag, and after he had made it clear that if it was not passed, further forceful measures would be taken, the act was passed on the 24th March 1933.

#### THE CONSOLIDATION OF POWER

The NSDAP, having achieved power in this way, now proceeded to extend its hold on every phase of German life. Other political

parties were persecuted, their property and assets confiscated, and many of their members placed in concentration camps. On 26th April 1933 the defendant Goering founded in Prussia the Gestapo as a secret police, and confided to the deputy leader of the Gestapo that its main task was to eliminate political opponents of National Socialism and Hitler. On the 14th July 1933 a law was passed declaring the NSDAP to be the only political party, and making it criminal to maintain or form any other political party.

In order to place the complete control of the machinery of Government in the hands of the Nazi leaders, a series of laws and decrees were passed which reduced the powers of regional and local governments throughout Germany, transforming them into subordinate divisions of the Government of the Reich. Representative assemblies in the Laender were abolished, and with them all local elections. The Government then proceeded to secure control of the Civil Service. This was achieved by a process of centralization, and by a careful sifting of the whole Civil Service administration. By a law of the 7th April it was provided that officials "who were of non-Aryan descent" should be retired; and it was also decreed that "officials who because of their previous political activity do not offer security that they will exert themselves for the national state without reservation shall be discharged." The law of the 11th April 1933 provided for

the discharge of "all Civil Servants who belong to the Communist Party." Similarly, the Judiciary was subjected to control. Judges were removed from the Bench for political or racial reasons. They were spied upon and made subject to the strongest pressure to join the Nazi Party as an alternative to being dismissed. When the Supreme Court acquitted three of the four defendants charged with complicity in the Reichstag fire, its jurisdiction in cases of treason was thereafter taken away and given to a newly established "People's Court," consisting of two judges and five officials of the Party. Special courts were set up to try political crimes and only party members were appointed as judges. Persons were arrested by the SS for political reasons, and detained in prisons and concentration camps; and the judges were without power to intervene in any way. Pardons were granted to members of the Party who had been sentenced by the judges for proved offenses. In 1935, several officials of the Hohenstein concentration camp were convicted of inflicting brutal treatment upon the inmates. High Nazi officials tried to influence the Court, and after the officials had been convicted, Hitler pardoned them all. In 1942 "Judges' letters" were sent to all German judges by the Government, instructing them as to the "general lines" that they must follow.

In their determination to remove all sources of opposition, the NSDAP leaders turned their at-

tention to the trade unions, the churches and the Jews. In April 1933 Hitler ordered the late defendant Ley, who was then staff director of the political organization of the NSDAP, "to take over the trade unions." Most of the trade unions of Germany were joined together in two large federations, the "Free Trade Unions" and the "Christian Trade Unions." Unions outside these two large federations contained only 15 per cent of the total union membership. On the 21st April 1933 Ley issued an NSDAP directive announcing a "coordination action" to be carried out on the 2nd May against the Free Trade Unions. The directive ordered that SA and SS men were to be employed in the planned "occupation of trade union properties and for the taking into protective custody of personalities who come into question." At the conclusion of the action the official NSDAP press service reported that the National Socialist Factory Cells Organization had "eliminated the old leadership of Free Trade Unions" and taken over the leadership themselves. Similarly, on the 3rd May 1933 the NSDAP press service announced that the Christian trade unions "have unconditionally subordinated themselves to the leadership of Adolf Hitler." In place of the trade unions the Nazi Government set up a German Labor Front (DAF), controlled by the NSDAP, and which, in practice, all workers in Germany were compelled to join. The chairmen of

the unions were taken into custody and were subjected to ill treatment, ranging from assault and battery to murder.

In their effort to combat the influence of the Christian churches, whose doctrines were fundamentally at variance with National Socialist philosophy and practice, the Nazi Government proceeded more slowly. The extreme step of banning the practice of the Christian religion was not taken, but year by year efforts were made to limit the influence of Christianity on the German people, since, in the words used by the defendant Bormann to the defendant Rosenberg in an official letter, "the Christian religion and National Socialist doctrines are not compatible." In the month of June 1941 the defendant Bormann issued a secret decree on the relation of Christianity and National Socialism. The decree stated that:

"For the first time in German history the Fuehrer consciously and completely has the leadership in his own hand. With the Party, its components and attached units, the Fuehrer has created for himself and thereby the German Reich Leadership, an instrument which makes him independent of the Treaty. . . . More and more the people must be separated from the churches and their organs, the Pastor. . . . Never again must an influence on leadership of the people be yielded to the churches. This influence must be broken completely and finally. Only the

Reich Government and by its direction the Party, its components and attached units, have a right to leadership of the people."

From the earliest days of the NSDAP, anti-Semitism had occupied a prominent place in National Socialist thought and propaganda. The Jews, who were considered to have no right to German citizenship, were held to have been largely responsible for the troubles with which the nation was afflicted following on the war of 1914-1918. Furthermore, the antipathy to the Jews was intensified by the insistence which was laid upon the superiority of the Germanic race and blood. The second chapter of Book I of "Mein Kampf" is dedicated to what may be called the "Master Race" theory, the doctrine of Aryan superiority over all other races, and the right of Germans in virtue of this superiority to dominate and use other peoples for their own ends. With the coming of the Nazis into power in 1933, persecution of the Jews became official state policy. On the 1st April 1933, a boycott of Jewish enterprises was approved by the Nazi Reich Cabinet, and during the following years a series of anti-Semitic laws were passed, restricting the activities of Jews in the Civil Service, in the legal profession, in journalism and in the armed forces. In September 1935, the so-called Nuremberg Laws were passed, the most important effect of which was to deprive Jews of German citizenship. In this way

the influence of Jewish elements on the affairs of Germany was extinguished, and one more potential source of opposition to Nazi policy was rendered powerless.

In any consideration of the crushing of opposition, the massacre of the 30th June 1934 must not be forgotten. It has become known as the "Roehm Purge" or "the blood bath," and revealed the methods which Hitler and his immediate associates, including the defendant Goering, were ready to employ to strike down all opposition and consolidate their power. On that day Roehm, the Chief of Staff of the SA since 1931, was murdered by Hitler's orders, and the "Old Guard" of the SA was massacred without trial and without warning. The opportunity was taken to murder a large number of people who at one time or another had opposed Hitler.

The ostensible ground for the murder of Roehm was that he was plotting to overthrow Hitler, and the defendant Goering gave evidence that knowledge of such a plot had come to his ears. Whether this was so or not it is not necessary to determine.

On July 3rd the Cabinet approved Hitler's action and described it as "legitimate self-defense by the State."

Shortly afterwards Hindenburg died, and Hitler became both Reich President and Chancellor. At the Nazi-dominated Plebiscite, which followed, 38 million Germans expressed their approval, and with the Reichswehr taking

the oath of allegiance to the Fuehrer, full power was now in Hitler's hands.

Germany had accepted the Dictatorship with all its methods of terror, and its cynical and open denial of the rule of law.

Apart from the policy of crushing the potential opponents of their regime, the Nazi Government took active steps to increase its power over the German population. In the field of education, everything was done to ensure that the youth of Germany was brought up in the atmosphere of National Socialism and accepted National Socialist teachings. As early as the 7th April 1933 the law reorganizing the Civil Service had made it possible for the Nazi Government to remove all 'subversive and unreliable teachers'; and this was followed by numerous other measures to make sure that the schools were staffed by teachers who could be trusted to teach their pupils the full meaning of National Socialist creed. Apart from the influence of National Socialist teaching in the schools, the Hitler Youth Organization was also relied upon by the Nazi Leaders for obtaining fanatical support from the younger generation. The defendant von Schirach, who had been Reich Youth Leader of the NSDAP since 1931 was appointed Youth Leader of the German Reich in June 1933. Soon all the youth organizations had been either dissolved or absorbed by the Hitler Youth, with the exception of the Catholic Youth. The Hitler Youth was or-

ganized on strict military lines, and as early as 1933 the Wehrmacht was cooperating in providing pre-military training for the Reich Youth.

The Nazi Government endeavored to unite the nation in support of their policies through the extensive use of propaganda. A number of agencies were set up whose duty was to control and influence the press, radio, films, publishing firms, etc., in Germany, and to supervise entertainment and cultural and artistic activities. All these agencies came under Goebbels' Ministry of the People's Enlightenment and Propaganda, which together with a corresponding organization in the NSDAP and the Reich Chamber of Culture, was ultimately responsible for exercising this supervision. The defendant Rosenberg played a leading part in disseminating the National Socialist doctrines on behalf of the Party, and the defendant Fritzsche, in conjunction with Goebbels, performed the same task for the State.

The greatest emphasis was laid on the supreme mission of the German people to lead and dominate by virtue of their Nordic blood and racial purity; and the ground was thus being prepared for the acceptance of the idea of German world supremacy.

Through the effective control of the radio and the press, the German people, during the years which followed 1933, were subjected to the most intensive propaganda in furtherance of the

regime. Hostile criticism, indeed criticism of any kind, was forbidden, and the severest penalties were imposed on those who indulged in it.

Independent judgment, based on freedom of thought, was rendered quite impossible.

#### MEASURES OF REARMAMENT

During the years immediately following Hitler's appointment as Chancellor, the Nazi Government set about reorganizing the economic life of Germany, and in particular the armament industry. This was done on a vast scale and with extreme thoroughness.

It was necessary to lay a secure financial foundation for the building of armaments, and in April 1936 the defendant Goering was appointed coordinator for raw materials and foreign exchange, and empowered to supervise all state and party activities in these fields. In this capacity he brought together the War Minister, the Minister of Economics, the Reich Finance Minister, the President of the Reichsbank and the Prussian Finance Minister to discuss problems connected with war mobilization, and on the 27th May 1936, in addressing these men, Goering opposed any financial limitation of war production and added that "all measures are to be considered from the standpoint of an assured waging of war." At the Party Rally in Nuremberg in 1936, Hitler announced the establishment of the Year Plan and the appointment of Goering as the Plenipotentiary in

charge. Goering was already engaged in building a strong air force and on the 8th July 1938 he announced to a number of leading German aircraft manufacturers that the German Air Force was already superior in quality and quantity to the English. On the 14th October 1938, at another conference Goering announced that Hitler had instructed him to organize a gigantic armament program, which would make insignificant all previous achievements. He said that he had been ordered to build as rapidly as possible an air force five times as large as originally planned, to increase the speed of the rearmament of the navy and army, and to concentrate on offensive weapons, principally heavy artillery and heavy tanks. He then laid down a specific program designed to accomplish these ends. The extent to which rearmament had been accomplished was stated by Hitler in his memorandum of October 9th, 1939, after the campaign in Poland. He said:

"The military application of our people's strength has been carried through to such an extent that within a short time at any rate it cannot be markedly improved upon by any manner of effort. . . .

"The warlike equipment of the German people is at present larger in quantity and better in quality for a greater number of German divisions than in the year 1914. The weapons themselves, taking a substantial cross-section, are more modern than

is the case with any other country in the world at this time. They have just proved their supreme war worthiness in their victorious campaign. . . . There is no evidence available to show that any country in the world disposes of a better total ammunition stock than the Reich. . . . The A. A. artillery is not equaled by any country in the world."

In this reorganization of the economic life of Germany for military purposes, the Nazi Government found the German armament industry quite willing to cooperate, and to play its part in the rearmament program. In April 1933, Gustav Krupp von Bohlen submitted to Hitler on behalf of the Reich Association of German Industry a plan for the reorganization of German industry, which he stated was characterized by the desire to coordinate economic measures and political necessity. In the plan itself, Krupp stated that "the turn of political events is in line with the wishes which I myself and the board of directors have cherished for a long time." What Krupp meant by this statement is fully shown by the draft text of a speech which he planned to deliver in the University of Berlin in January 1944, though the speech was in fact never delivered. Referring to the years 1919 to 1933, Krupp wrote: "It is the one great merit of the entire German war economy that it did not remain idle during those bad years, even though its activity could not be brought to light for obvious rea-

sons. Through years of secret work, scientific and basic groundwork was laid in order to be ready again to work for the German armed forces at the appointed hour, without loss of time or experience. . . . Only through the secret activity of German enterprise together with the experience gained meanwhile through production of peace time goods, was it possible after 1933 to fall into step with the new tasks arrived at, restoring Germany's military power."

In October 1933 Germany withdrew from the International Disarmament Conference and League of Nations. In 1935 the Nazi Government decided to take the first open steps to free itself from its obligations under the Treaty of Versailles. On the 10th March 1935 the defendant Goering announced that Germany was building a military air force. Six days later, on the 16th March 1935, a law was passed bearing the signatures, among others, of the defendants Goering, Hess, Frank, Frick, Schacht and von Neurath, instituting compulsory military service and fixing the establishment of the German Army at a peace time strength of 500,000 men. In an endeavor to reassure public opinion in other countries, the Government announced on the 21st May 1935 that Germany would, though renouncing the disarmament clauses, still respect the territorial limitations of the Versailles Treaty, and would comply with the Locarno Pacts. Nevertheless, on the very day of this announce-

ment, the secret Reich Defence Law was passed and its publication forbidden by Hitler. In this law, the powers and duties of the Chancellor and other Ministers were defined, should Germany become involved in war. It is clear from this law that by May of 1935 Hitler and his Government had arrived at the stage in the carrying out of their policies when it was necessary for them to have in existence the requisite machinery for the administration and government of Germany in the event of their policy leading to war.

At the same time that this preparation of the German economy for war was being carried out, the German armed forces themselves were preparing for a rebuilding of Germany's armed strength.

The German Navy was particularly active in this regard. The official German Naval historians, Assmann and Gladisch, admit that the Treaty of Versailles had only been in force for a few months before it was violated particularly in the construction of a new submarine arm.

The publications of Captain Schuessler and Oberst Scherf, both of which were sponsored by the defendant Raeder, were designed to show the German people the nature of the Navy's effort to rearm in defiance of the Treaty of Versailles.

The full details of these publications have been given in evidence.

On the 12th May 1934 the defendant Raeder issued the Top Se-

cret armament plan for what was called the Third Armament Phase. This contained the sentence:

"All theoretical and practical A-preparations are to be drawn up with a primary view to readiness for a war *without any alert period.*"

One month later, in June 1934, the defendant Raeder had a conversation with Hitler in which Hitler instructed him to keep secret the construction of U-boats and of warships over the limit of 10,000 tons which was then being undertaken.

And on the 2nd November 1934, the defendant Raeder had another conversation with Hitler and the defendant Goering, in which Hitler said that he considered it vital that the German Navy "should be increased as planned, as no war could be carried on if the Navy was not able to safeguard the ore imports from Scandinavia."

The large orders for building given in 1933 and 1934 are sought to be excused by the defendant Raeder on the ground that negotiations were in progress for an agreement between Germany and Great Britain permitting Germany to build ships in excess of the provisions of the Treaty of Versailles. This agreement, which was signed in 1935, restricted the German Navy to a tonnage equal to one-third of that of the British, except in respect of U-boats where 45% was agreed, subject always to the right to exceed this proportion after first informing the Brit-

ish Government and giving them an opportunity of discussion.

The Anglo-German Treaty followed in 1937, under which both Powers bound themselves to notify full details of their building program at least four months before any action was taken.

It is admitted that these clauses were not adhered to by Germany.

In capital vessels, for example, the displacement details were falsified by 20%, whilst in the case of U-boats, the German historians Assmann and Gladisch say:

"It is probably just in the sphere of submarine construction that Germany adhered the least to the restrictions of the German-British Treaty."

The importance of these breaches of the Treaty is seen when the motive for this rearmament is considered. In the year 1940 the defendant Raeder himself wrote:

"The Fuehrer hoped until the last moment to be able to put off the threatening conflict with England until 1944-45. At that time, the Navy would have had available a fleet with a powerful U-boat superiority, and a much more favorable ratio as regards strength in all other types of ships, particularly those designed for warfare on the High Seas."

The Nazi Government as already stated, announced on the 21st May 1935 their intention to respect the territorial limitations of the Treaty, the demilitarized zone of the Rhineland was entered by German troops. In announcing this

action to the German Reichstag, Hitler endeavored to justify the re-entry by references to the recently concluded alliances between Czechoslovakia and the Soviet Union. He also tried to meet the hostile reaction which he no doubt expected to follow this violation of the Treaty by saying:

"We have no territorial claims to make in Europe."

### The Common Plan of Conspiracy and Aggressive War

The Tribunal now turns to the consideration of the Crimes against peace charged in the Indictment. Count One of the Indictment charges the defendants with conspiring or having a common plan to commit crimes against peace. Count Two of the Indictment charges the defendants with committing specific crimes against peace by planning, preparing, initiating, and waging wars of aggression against a number of other States. It will be convenient to consider the question of the existence of a common plan and the question of aggressive war together, and to deal later in this Judgment with the question of the individual responsibility of the defendants.

The charges in the Indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. War is essentially an evil thing. Its consequences are not confined to the belligerent states alone, but affect the whole world.

To initiate a war of aggression,

therefore, is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.

The first acts of aggression referred to in the Indictment are the seizure of Austria and Czechoslovakia; and the first war of aggression charged in the Indictment is the war against Poland begun on the 1st September 1939.

Before examining that charge it is necessary to look more closely at some of the events which preceded these acts of aggression. The war against Poland did not come suddenly out of an otherwise clear sky; the evidence has made it plain that this war of aggression, as well as the seizure of Austria and Czechoslovakia, was premeditated and carefully prepared, and was not undertaken until the moment was thought opportune for it to be carried through as a definite part of the preordained scheme and plan.

For the aggressive designs of the Nazi Government were not accidents arising out of the immediate political situation in Europe and the world; they were a deliberate and essential part of Nazi foreign policy.

From the beginning, the National Socialist movement claimed that its object was to unite the German people in the consciousness of their mission and destiny, based on inherent qualities of race, and under the guidance of the Fuehrer.

For its achievement, two things were deemed to be essential: the disruption of the European order as it had existed since the Treaty of Versailles, and the creation of a Greater Germany beyond the frontiers of 1914. This necessarily involved the seizure of foreign territories.

War was seen to be inevitable, or at least, highly probable, if these purposes were to be accomplished. The German people, therefore, with all their resources, were to be organized as a great political-military army, schooled to obey without question any policy decreed by the State.

#### PREPARATION FOR AGGRESSION

In "Mein Kampf" Hitler had made this view quite plain. It must be remembered that "Mein Kampf" was no mere private diary in which the secret thoughts of Hitler were set down. Its contents were, rather, proclaimed from the housetops. It was used in the schools and universities and among the Hitler Youth, in the SS and the SA, and among the German people generally, even down to the presentation of an official copy to all newly married people. By the year 1945 over 6½ million copies had been circulated. The general contents are well known. Over and over again Hitler asserted his belief in the necessity of force as the means of solving international problems, as in the following quotation:

"The soil on which we now live was not a gift bestowed by Heaven on our forefathers. They

had to conquer it by risking their lives. So also in the future, our people will not obtain territory, and therewith the means of existence, as a favor from any other people, but will have to win it by the power of a triumphant sword."

"Mein Kampf" contains many such passages, and the extolling of force as an instrument of foreign policy is openly proclaimed.

The precise objectives of this policy of force are also set forth in detail. The very first page of the book asserts that "German-Austria must be restored to the great German Motherland," not on economic grounds, but because "people of the same blood should be in the same Reich."

The restoration of the German frontiers of 1914 is declared to be wholly insufficient, and if Germany is to exist at all, it must be as a world power with the necessary territorial magnitude.

"Mein Kampf" is quite explicit in stating where the increased territory is to be found:

"Therefore we National Socialists have purposely drawn a line through the line of conduct followed by pre-war Germany in foreign policy. We put an end to the perpetual Germanic march towards the South and West of Europe, and turn our eyes towards the lands of the East. We finally put a stop to the colonial and trade policy of the pre-war times, and pass over to the territorial policy of the future.

"But when we speak of new territory in Europe today, we must think principally of Russia and the border states subject to her."

"Mein Kampf" is not to be regarded as a mere literary exercise, nor as an inflexible policy or plan incapable of modification.

Its importance lies in the unmistakable attitude of aggression revealed throughout its pages.

#### THE PLANNING OF AGGRESSION

Evidence from captured documents has revealed that Hitler held four secret meetings to which the Tribunal proposes to make special reference because of the light they shed upon the question of the common plan and aggressive war.

These meetings took place on the 5th November 1937, the 23rd of May 1939, the 22nd of August 1939 and the 23rd of November 1939.

At these meetings important declarations were made by Hitler as to his purposes, which are quite unmistakable in their terms.

The documents which record what took place at these meetings have been subject to some criticism at the hands of defending Counsel.

Their essential authenticity is not denied, but it is said, for example, that they do not purport to be verbatim transcripts of the speeches they record, that the document dealing with the meeting on the 5th November 1937, was dated five days after the meeting had taken place, and that the two doc-

uments dealing with the meeting of August 22nd 1939 differ from one another, and are unsigned.

Making the fullest allowance for criticism of this kind, the Tribunal is of the opinion that the documents are documents of the highest value, and that their authenticity and substantial truth are established.

They are obviously careful records of the events they describe, and they have been preserved as such in the archives of the German Government, from whose custody they were captured. Such documents could never be dismissed as inventions, nor even as inaccurate or distorted; they plainly record events which actually took place.

#### CONFERENCES OF THE 23RD NOVEMBER 1939 AND 5TH NOVEMBER 1937

It will perhaps be useful to deal first of all with the meeting of the 23rd November 1939, when Hitler called his Supreme Commanders together. A record was made of what was said, by one of those present. At the date of the meeting, Austria and Czechoslovakia had been incorporated into the German Reich, Poland had been conquered by the German armies, and the war with Great Britain and France was still in its static phase. The moment was opportune for a review of past events. Hitler informed the Commanders that the purpose of the Conference was to give them an idea of the world of his thoughts, and to tell

them his decision. He thereupon reviewed his political task since 1919, and referred to the secession of Germany from the League of Nations, the denunciation of the Disarmament Conference, the order for rearmament, the introduction of compulsory armed service, the occupation of the Rhineland, the seizure of Austria, and the action against Czechoslovakia. He stated:

“One year later, Austria came; this step also was considered doubtful. It brought about a considerable reinforcement of the Reich. The next step was Bohemia, Moravia and Poland. This step also was not possible to accomplish in one campaign. First of all, the western fortification had to be finished. It was not possible to reach the goal in one effort. It was clear to me from the first moment that I could not be satisfied with the Sudeten German territory. That was only a partial solution. The decision to march into Bohemia was made. Then followed the erection of the Protectorate and with that the basis for the action against Poland was laid, but I wasn't quite clear at that time whether I should start first against the East and then in the West or vice versa . . . Basically I did not organize the armed forces in order not to strike. The decision to strike was always in me. Earlier or later I wanted to solve the problem. Under pressure it was decided that the East was to be attacked first.”

This address, reviewing past events and reaffirming the aggressive intentions present from the beginning, puts beyond any question of doubt the character of the actions against Austria and Czechoslovakia, and the war against Poland.

For they had all been accomplished according to plan; and the nature of that plan must now be examined in a little more detail.

At the meeting of the 23rd November 1939 Hitler was looking back to things accomplished; at the earlier meetings now to be considered, he was looking forward, and revealing his plans to his confederates. The comparison is instructive.

The meeting held at the Reich Chancellery in Berlin on the 5th November 1937 was attended by Lt.Col. Hozzback, Hitler's personal adjutant, who compiled a long note of the proceedings, which he dated the 10th November 1937 and signed.

The persons present were Hitler, and the defendants Goering, von Neurath and Raeder, in their capacities as Commander-in-Chief of the Luftwaffe, Reich Foreign Minister and Commander-in-Chief of the Navy respectively, General von Blomberg, Minister of War, and General von Fritsch, the Commander-in-Chief of the Army.

Hitler began by saying that the subject of the conference was of such high importance that in other states it would have taken place before the Cabinet. He went on to say that the subject matter of

his speech was the result of his detailed deliberations, and of his experiences during his four and a half years of Government. He requested that the statements he was about to make should be looked upon in the case of his death as his last will and testament. Hitler's main theme was the problem of living space, and he discussed various possible solutions, only to set them aside. He then said that the seizure of living space on the continent of Europe was therefore necessary, expressing himself in these words:

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

He concluded with this observation:

"The question for Germany is where the greatest possible conquest could be made at the lowest cost."

Nothing could indicate more plain-

ly the aggressive intentions of Hitler, and the events which soon followed the reality of his purpose. It is impossible to accept the contention that Hitler did not actually mean war; for after pointing out that Germany might expect the opposition of England and France, and analyzing the strength and the weakness of those powers in particular situations, he continued:

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

If we place the decision to apply force with risk at the head of the following expositions, then we are left to reply to the questions 'when' and 'how.' In this regard we have to decide upon three different cases."

The first of these three cases set forth a hypothetical international situation, in which he would take action not later than 1943 to 1945, saying:

"If the Fuehrer is still living then it will be his irrevocable decision to solve the German space problem not later than 1943 to 1945. The necessity for action before 1943 to 1945 will come under consideration in Cases 2 and 3."

The second and third cases to which Hitler referred show the plain intention to seize Austria and Czechoslovakia, and in this connection Hitler said:

"For the improvement of our military - political position, it must be our first aim in every case of entanglement by war to conquer Czechoslovakia and

Austria simultaneously in order to remove any threat from the flanks in case of a possible advance westwards."

He further added:

"The annexation of the two states to Germany militarily and politically would constitute a considerable relief, owing to shorter and better frontiers, the freeing of fighting personnel for other purposes, and the possibility of reconstituting new armies up to a strength of about twelve divisions."

This decision to seize Austria and Czechoslovakia was discussed in some detail; the action was to be taken as soon as a favorable opportunity presented itself.

The military strength which Germany had been building up since 1933 was now to be directed at the two specific countries, Austria and Czechoslovakia.

The defendant Goering testified that he did not believe at that time that Hitler actually meant to attack Austria and Czechoslovakia, and that the purpose of the conference was only to put a pressure on von Fritsch to speed up the rearmament of the army.

The defendant Raeder testified that neither he, nor von Fritsch, nor von Blomberg, believed that Hitler actually meant war, a conviction which the defendant Raeder claims that he held up to the 22nd August 1939. The basis of this conviction was his hope that Hitler would obtain a "political solution" of Germany's problems. But all

that this means, when examined, is the belief that Germany's position would be so good, and Germany's armed might so overwhelming, that the territory desired could be obtained without fighting for it. It must be remembered too that Hitler's declared intention with regard to Austria was actually carried out within a little over four months from the date of the meeting, and within less than a year the first portion of Czechoslovakia was absorbed, and Bohemia and Moravia a few months later. If any doubts had existed in the minds of any of his hearers in November 1937, after March of 1939 there could no longer be any question that Hitler was in deadly earnest in his decision to resort to war. The Tribunal is satisfied that Lt.-Col. Hoszbach's account of the meeting is substantially correct and that those present knew that Austria and Czechoslovakia would be annexed by Germany at the first possible opportunity.

#### THE INVASION OF AUSTRIA

The invasion of Austria was a premeditated aggressive step in furthering the plan to wage aggressive wars against other countries. As a result Germany's flank was protected, that of Czechoslovakia being greatly weakened. The first step had been taken in the seizure of "Lebensraum"; many new divisions of trained fighting men had been acquired; and the seizure of foreign exchange reserves, the rearmament program had been greatly strengthened.

On the 21st May 1935 Hitler announced in the Reichstag that Germany did not intend either to attack Austria or to interfere in her internal affairs. On the 1st May 1936 he publicly coupled Czechoslovakia with Austria in his avowal of peaceful intentions; and so late as the 11th July 1936 he recognized by treaty the full sovereignty of Austria.

Austria was in fact seized by Germany in the month of March 1938. For a number of years before that date, the National Socialists in Germany had been cooperating with the National Socialists of Austria with the ultimate object of incorporating Austria into the German Reich. The Putsch of July 25th 1934, which resulted in the assassination of Chancellor Dollfuss, had the seizure of Austria as its object; but the Putsch failed, with the consequence that the National Socialist Party was outlawed in Austria. On the 11th July 1936 an agreement was entered into between the two countries, Article 1 of which stated:

"The German Government recognizes the full sovereignty of the Federated State of Austria in the spirit of the pronouncements of the German Fuehrer and Chancellor of the 21st May 1935."

Article 2 declared:

"Each of the two Governments regards the inner political order (including the question of Austrian National Socialism) obtaining in the other country as an internal affair of the other coun-

try, upon which it will exercise neither direct nor indirect influence."

The National Socialist movement in Austria however continued its illegal activities under cover of secrecy; and the National Socialists of Germany gave the Party active support. The resulting "incidents" were seized upon by the German National Socialists as an excuse for interfering in Austrian affairs. After the conference of the 5th November 1937, these "incidents" rapidly multiplied. The relationship between the two countries steadily worsened, and finally the Austrian Chancellor Schuschnigg was persuaded by the defendant von Papen and others to seek a conference with Hitler, which took place at Berchtesgaden on the 12th February 1938. The defendant Keitel was present at the conference, and Dr. Schuschnigg was threatened by Hitler with an immediate invasion of Austria. Schuschnigg finally agreed to grant a political amnesty to various Nazis convicted of crime, and to appoint the Nazi Seyss-Inquart as Minister of the Interior and Security with control of the Police. On the 9th March 1938, in an attempt to preserve the independence of his country, Dr. Schuschnigg decided to hold a plebiscite on the question of Austrian independence, which was fixed for the 13th March 1938. Hitler, two days later, sent an ultimatum to Schuschnigg that the plebiscite must be withdrawn. In the afternoon and evening of the 11th March 1938 the defendant

Goering made a series of demands upon the Austrian Government, each backed up by the threat of invasion. After Schuschnigg had agreed to the cancellation of the plebiscite, another demand was put forward that Schuschnigg must resign, and that the defendant Seyss-Inquart should be appointed Chancellor. In consequence, Schuschnigg resigned, and President Miklas, after at first refusing to appoint Seyss-Inquart as Chancellor, gave way and appointed him.

Meanwhile Hitler had given the final order for the German troops to cross the border at dawn on the 12th of March and instructed Seyss-Inquart to use formations of Austrian National Socialists to depose Miklas and to seize control of the Austrian Government. After the order to march had been given to the German troops, Goering telephoned the German Embassy in Vienna and dictated a telegram which he wished Seyss-Inquart to send to Hitler to justify the military action which had already been ordered.

It was:

"The provisional Austrian Government, which, after the dismissal of the Schuschnigg Government, considers its task to establish peace and order in Austria, sends to the German Government the urgent request to support it in its task and to help it to prevent bloodshed. For this purpose it asks the German Government to send German troops as soon as possible." Keppler, an official of the German

Embassy, replied:

"Well, SA and SS are marching through the Streets, but everything is quiet."

After some further discussion, Goering stated:

"Please show him (Seyss-Inquart) the text of the telegram, and do tell him that we are asking him——well, he doesn't even have to send the telegram. All he needs to do is to say 'Agreed.'"

Seyss-Inquart never sent the telegram; he never even telegraphed "Agreed."

It appears that as soon as he was appointed Chancellor, some time after 10 p. m., he called Keppler and told him to call up Hitler and transmit his protests against the occupation. This action outraged the defendant Goering, because "it would disturb the rest of the Fuehrer, who wanted to go to Austria the next day." At 11:15 p. m. an official in the Ministry of Propaganda in Berlin telephoned the German Embassy in Vienna and was told by Keppler: "Tell the General Field Marshal that Seyss-Inquart agrees."

At daybreak on the 12th March 1938 German troops marched into Austria, and met with no resistance. It was announced in the German press that Seyss-Inquart had been appointed the successor to Schuschnigg, and the telegram which Goering had suggested, but which was never sent was quoted to show that Seyss-Inquart had requested the presence of German troops to prevent disorder. On the

13th March 1938 a law was passed for the reunion of Austria in the German Reich. Seyss-Inquart demanded that President Miklas should sign this law, but he refused to do so, and resigned his office. He was succeeded by Seyss-Inquart, who signed the law in the name of Austria. This law was then adopted as a law of the Reich by a Reich Cabinet decree issued the same day, and signed by Hitler and the defendants Goering, Frick, von Ribbentrop and Hess.

It was contended before the Tribunal that the annexation of Austria was justified by the strong desire expressed in many quarters for the union of Austria and Germany; that there were many matters in common between the two peoples that made this union desirable; and that in the result the object was achieved without bloodshed.

These matters, even if true, are really immaterial, for the facts plainly prove that the methods employed to achieve the object were those of an aggressor. The ultimate factor was the armed might of Germany ready to be used if any resistance was encountered. Moreover, none of these considerations appear from the Hoeszbach account of the meetings of the 5th November 1937 to have been the motives which actuated Hitler; on the contrary, all the emphasis is there laid on the advantage to be gained by Germany in her military strength by the annexation of Austria.

#### THE SEIZURE OF CZECHOSLOVAKIA

The conference of the 5th November 1937 made it quite plain that the seizure of Czechoslovakia by Germany had been definitely decided upon. The only question remaining was the selection of the suitable moment to do it. On the 4th March 1938 the defendant Ribbentrop wrote to the defendant Keitel with regard to a suggestion made to Ribbentrop by the Hungarian Ambassador in Berlin, that possible war aims against Czechoslovakia should be discussed between the German and Hungarian armies. In the course of this letter Ribbentrop said:

"I have many doubts about such negotiations. In case we should discuss with Hungary possible war aims against Czechoslovakia, the danger exists that other parties as well would be informed about this."

On the 11th March 1938 Goering made two separate statements to M. Mastny, the Czechoslovak Minister in Berlin, assuring him that the developments then taking place in Austria would in no way have any detrimental influence on the relations between the German Reich and Czechoslovakia, and emphasized the continued earnest endeavor on the part of the Germans to improve those mutual relations. On the 12th March, Goering asked M. Mastny to call on him, and repeated these assurances.

This design to keep Czechoslovakia quiet whilst Austria was absorbed was a typical maneuver on the part of the defendant Goering,

which he was to repeat later in the case of Poland, when he made the most strenuous efforts to isolate Poland in the impending struggle. On the same day, the 12th March, the defendant von Neurath spoke with M. Mastny, and assured him on behalf of Hitler that Germany still considered herself bound by the German-Czechoslovak arbitration convention concluded at Locarno in October 1935.

The evidence shows that after the occupation of Austria by the German Army on the 12th March, and the annexation of Austria on the 13th March, Conrad Henlein, who was the leader of the Sudeten German party in Czechoslovakia, saw Hitler in Berlin on the 28th March. On the following day, at a conference in Berlin, when Ribbentrop was present with Henlein, the general situation was discussed, and later the defendant Jodl recorded in his diary:

"After the annexation of Austria the Fuehrer mentions that there is no hurry to solve the Czech question, because Austria has to be digested first. Nevertheless, preparations for Case Gruen (that is, the plan against Czechoslovakia) will have to be carried out energetically; they will have to be newly prepared on the basis of the changed strategic position because of the annexation of Austria."

On the 21st April 1938 a discussion took place between Hitler and the defendant Keitel with regard to "Case Gruen," showing quite clearly that the preparations for

the attack on Czechoslovakia were being fully considered. On the 28th May 1938 Hitler ordered that preparations should be made for military action against Czechoslovakia by the 2nd October, and from then onwards the plan to invade Czechoslovakia was constantly under review. On the 30th May 1938 a directive signed by Hitler declared his "unalterable decision to smash Czechoslovakia by military action in the near future."

In June, 1938, as appears from a captured document taken from the files of the SD in Berlin, an elaborate plan for the employment of the SD in Czechoslovakia had been proposed. This plan provided that "the SD follow, if possible, immediately after the leading troops, and take upon themselves the duties similar to their tasks in Germany . . ."

Gestapo officials were assigned to cooperate with the SD in certain operations. Special agents were to be trained beforehand to prevent sabotage, and these agents were to be notified "before the attack in due time . . . in order to give them the possibility to hide themselves, avoid arrest and deportation . . ."

"At the beginning, guerrilla or partisan warfare is to be expected, therefore weapons are necessary . . ."

Files of information were to be compiled with notations as follows: "To arrest" . . . "To liquidate" . . . "To confiscate" . . . "To deprive of passport." etc.

The plan provided for the temporary division of the country into larger and smaller territorial units, and considered various "suggestions," as they were termed, for the incorporation into the German Reich of the inhabitants and districts of Czechoslovakia. The final "suggestion" included the whole country, together with Slovakia and Carpathian Russia, with a population of nearly 15 millions.

The plan was modified in some respects in September after the Munich Conference, but the fact that the plan existed in such exact detail and was couched in such war-like language indicated a calculated design to resort to force.

On the 31st August 1938 Hitler approved a memorandum by Jodl dated 24th August 1938, concerning the timing of the order for the invasion of Czechoslovakia and the question of defense measures. This memorandum contained the following:

"Operation Gruen will be set in motion by means of an 'incident' in Czechoslovakia, which will give Germany provocation for military intervention. The fixing of the *exact time* for this incident is of the utmost importance.

These facts demonstrate that the occupation of Czechoslovakia had been planned in detail long before the Munich conference.

In the month of September 1938 the conferences and talks with military leaders continued. In view of the extraordinarily critical situation which had arisen, the British

Prime Minister, Mr. Chamberlain, flew to Munich and then went to Berchtesgaden to see Hitler. On the 22nd September Mr. Chamberlain met Hitler for further discussions at Bad Godesberg. On the 26th September 1938 Hitler said in a speech in Berlin, with reference to his conversation:

"I assured him, moreover, and I repeat it here, that when this problem is solved there will be no more territorial problems for Germany in Europe; and I further assured him that from the moment when Czechoslovakia solves its other problems, that is to say, when the Czechs have come to an arrangement with their other minorities, peacefully and without oppression, I will be no longer interested in the Czech State, and that as far I am concerned I will guarantee it. We don't want any Czechs."

On the 29th September 1938, after a conference between Hitler and Mussolini and the British and French Prime Ministers in Munich, the Munich Pact was signed, by which Czechoslovakia was required to acquiesce in the cession of the Sudetenland to Germany. The "piece of paper" which the British Prime Minister brought back to London, signed by himself and Hitler, expressed the hope that for the future Britain and Germany might live without war. That Hitler never intended to adhere to the Munich Agreement is shown by the fact that a little later he asked the defendant Keitel for information with regard to the mili-

tary force which in his opinion would be required to break all Czech resistance in Bohemia and Moravia. Keitel gave his reply on the 11th October 1938. On the 21st October 1938 a directive was issued by Hitler, and countersigned by the defendant Keitel, to the armed forces on their future tasks, which stated:

“Liquidation of the remainder of Czechoslovakia. It must be possible to smash at any time the remainder of Czechoslovakia if her policy should become hostile towards Germany.”

On the 14th March 1939 the Czech President Hacha and his Foreign Minister Chvalkovsky came to Berlin at the suggestion of Hitler, and attended a meeting at which the defendants Ribbentrop, Goering and Keitel were present, with others. The proposal was made to Hacha that if he would sign an agreement consenting to the incorporation of the Czech people in the German Reich at once, Bohemia and Moravia would be saved from destruction. He was informed that German troops had already received orders to march and that any resistance would be broken with physical force. The defendant Goering added the threat that he would destroy Prague completely from the air. Faced by this dreadful alternative, Hacha and his Foreign Minister put their signatures to the necessary agreement at 4:30 in the morning, and Hitler and Ribbentrop signed on behalf of Germany.

On the 15th March German troops occupied Bohemia and Moravia, and on the 16th March the German decree was issued incorporating Bohemia and Moravia in the Reich as a protectorate, and this decree was signed by the defendants Ribbentrop and Frick.

#### THE AGGRESSION AGAINST POLAND

By March 1939 the plan to annex Austria and Czechoslovakia, which had been discussed by Hitler at the meeting of the 5th November 1937, had been accomplished. The time had now come for the German leaders to consider further acts of aggression, made more possible of attainment because of that accomplishment.

On the 23d May 1939 a meeting was held in Hitler's study in the new Reich Chancellery in Berlin. Hitler announced his decision to attack Poland and gave his reasons, and discussed the effect the decision might have on other countries. In point of time, this was the second of the important meetings to which reference has already been made, and in order to appreciate the full significance of what was said and done, it is necessary to state shortly some of the main events in the history of German-Polish relations.

As long ago as the year 1925 an Arbitration Treaty between Germany and Poland had been made at Locarno, providing for the settlement of all disputes between the two countries. On the 26th January 1934, a German-Polish declaration of non-aggres-

sion was made, signed on behalf of the German Government by the defendant von Neurath. On the 30th January 1934, and again on the 30th January 1937, Hitler made speeches in the Reichstag in which he expressed his view that Poland and Germany could work together in harmony and peace. On the 30th February 1938 Hitler made a third speech in the Reichstag in the course of which he said with regard to Poland:

"And so the way to a friendly understanding has been successfully paved, an understanding which, beginning with Danzig, has today, in spite of the attempts of certain mischief makers, succeeded in finally taking the poison out of the relations between Germany and Poland and transforming them into a sincere, friendly cooperation. Relying on her friendships, Germany will not leave a stone unturned to save that ideal which provides the foundation for the task which is ahead of us—peace."

On the 26th September 1938, in the middle of the crisis over the Sudetenland, Hitler made the speech in Berlin which has already been quoted, and announced that he had informed the British Prime Minister that when the Czechoslovakian problem has been solved there would be no more territorial problems for Germany in Europe. Nevertheless, on the 24th November of the same year, an OKW directive was issued to the German armed forces to make

preparations for an attack upon Danzig; it stated:

"The Fuehrer has ordered:

"(1) Preparations are also to be made to enable the Free State of Danzig to be occupied by German troops by surprise."

In spite of having ordered military preparations for the occupation of Danzig, Hitler, on the 30th January 1939, said in a speech in the Reichstag:

"During the troubled months of the past year, the friendship between Germany and Poland has been one of the most reassuring factors in the political life of Europe."

Five days previously, on the 25th January 1939, Ribbentrop said in the course of a speech in Warsaw:

"Thus Poland and Germany can look forward to the future with full confidence in the solid basis of their mutual relations."

Following the occupation of Bohemia and Moravia by Germany on the 15th March 1939, which was a flagrant breach of the Munich Agreement, Great Britain gave an assurance to Poland on the 31st March 1939 that in the event of any action which clearly threatened Polish independence, and which the Polish Government accordingly considered it vital to resist with their national forces, Great Britain would feel itself bound at once to lend Poland all the support in its power. The French Government took the same stand. It is interesting to note in this connection, that one of the

arguments frequently presented by the defense in the present case is that the defendants were influenced to think that their conduct was not in breach of international law by the acquiescence of other Powers. The declarations of Great Britain and France showed, at least, that this view could be held no longer.

On the 3rd April 1939 a revised OKW directive was issued to the armed forces, which after referring to the question of Danzig made reference to Fall Weiss (the military code name for the German invasion of Poland) and stated:

"The Fuehrer has added the following directions to Fall Weiss:

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

"(2) The High Command of the Armed Forces has been directed to draw up a precise timetable for Fall Weiss and to arrange by conferences the synchronized timings between the three branches of the Armed Forces."

On the 11th April 1939, a further directive was signed by Hitler and issued to the armed forces, and in one of the annexes to that document the words occur:

"Quarrels with Poland should be avoided. Should Poland however adopt a threatening attitude towards Germany, 'a final settlement' will be necessary, notwithstanding the pact with

Poland. The aim is then to destroy Polish military strength and to create in the East a situation which satisfies the requirements of defense. The Free State of Danzig will be incorporated into Germany at the outbreak of the conflict at the latest. Policy aims at limiting the war to Poland, and this is considered possible in view of the internal crisis in France, and British restraint as a result of this."

In spite of the contents of these two directives, Hitler made a speech in the Reichstag on the 28th April 1939 in which, after describing the Polish Government's alleged rejection of an offer he had made with regard to Danzig and the Polish Corridor, he stated:

"I have regretted greatly this incomprehensible attitude of the Polish Government, but that alone is not the decisive fact; the worst is that now Poland like Czechoslovakia a year ago believes, under the pressure of a lying international campaign, that it must call up its troops, although Germany on her part has not called up a single man, and had not thought of proceeding in any way against Poland.... The intention to attack on the part of Germany which was merely invented by the international Press..."

It was four weeks after making this speech that Hitler, on the 23d May 1939, held the important military conference to which reference has already been made.

Among the persons present were the defendants Goering, Raeder and Keitel. The adjutant on duty that day was Lieut.-Col. Schmudt, and he made a record of what happened, certifying it with his signature as a correct record.

The purpose of the meeting was to enable Hitler to inform the heads of the armed forces and their staffs of his views on the political situation and his future aims. After analyzing the political situation and reviewing the course of events since 1933, Hitler announced his decision to attack Poland. He admitted that the quarrel with Poland over Danzig was not the reason for this attack, but the necessity for Germany to enlarge her living space and secure her food supplies. He said:

"The solution of the problem demands courage. The principle by which one evades solving the problem by adapting oneself to circumstances is inadmissible. Circumstances must rather be adapted to. This is impossible without invasion of foreign states or attacks upon foreign property."

Later in his address he added:

"There is therefore no question of sparing Poland, and we are left with the decision to attack Poland at the first suit-

able opportunity. We cannot expect a repetition of the Czech affair. There will be war. Our task is to isolate Poland. The success of the isolation will be decisive... The isolation of Poland is a matter of skillful politics."

Lt.-Col. Schmudt's record of the meeting reveals that Hitler fully realized the possibility of Great Britain and France coming to Poland's assistance. If, therefore, the isolation of Poland could not be achieved, Hitler was of the opinion that Germany should attack Great Britain and France first, or at any rate should concentrate, primarily on the war in the West in order to defeat Great Britain and France quickly, or at least to destroy their effectiveness. Nevertheless, Hitler stressed that war with England and France would be a life and death struggle, which might last a long time, and that preparations must be made accordingly.

During the weeks which followed this conference, other meetings were held and directives were issued in preparation for the war. The defendant Ribbentrop was sent to Moscow to negotiate a non-aggression pact with the Soviet Union.

*(To be continued in the next issue)*